

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

IN THE MATTER OF: :
: :
Green Island Heaven and Hell, Inc. :
t/a Green Island Café/Heaven & Hell: :
2327 18th Street, NW : Show
Retailer CT - ANC 1C : Cause
License No. 74503 : Hearing
Case #18-251-00219 :
Case #18-CMP-00208 :
: :
(Failed to Maintain Ownership and :
Control of the Establishment, :
Failed to Follow Security Plan :
(Two Counts), Allowed a Patron to :
Leave the Establishment with an :
Alcoholic Beverage in an Open :
Container, Violation of Settlement :
Agreement) :

Wednesday
August 7, 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
BOBBY CATO, JR., Member
MIKE SILVERSTEIN, Member
JAMES SHORT, Member
RAFI A. CROCKETT, Member

ALSO PRESENT:

MEHARI WELDEMARIAM, APPLICANT

ROBERT NEWMAN, COUNSEL FOR APPLICANT

INVESTIGATOR KEVIN PUENTE, ABRA

JESSICA KRUPKE, DC OAG

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

2 10:13 a.m.

3 CHAIRPERSON ANDERSON: All right. Our
4 next case on our calendar is Case No. 18-251-
5 00219 and Case No. 18-CMP-00208, Green Island
6 Cafe/Heaven & Hell, License No. 74503.

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

9 MS. KRUPKE: Good morning. Jessica
10 Krupke on behalf of the District of Columbia.

11 CHAIRPERSON ANDERSON: Good morning,
12 Ms. Krupke.

13 MR. NEWMAN: Good morning. Robert
14 Newman on behalf of Green Island Cafe.

15 CHAIRPERSON ANDERSON: Good morning,
16 Mr. Newman.

17 MR. WELDEMARIAM: Good morning.
18 Mehari Weldemariam.

19 CHAIRPERSON ANDERSON: Good morning,
20 Mr. Weldemariam, good morning. You can have a
21 seat please.

22 Ms. Krupke, are there any preliminary

1 matters in this case?

2 MS. KRUPKE: There are not.

3 CHAIRPERSON ANDERSON: Is the
4 Government prepared to make an opening statement?

5 MS. KRUPKE: Yes, we are.

6 CHAIRPERSON ANDERSON: Okay. One of
7 the things I had asked for, did the parties
8 exchange documents and witnesses?

9 MS. KRUPKE: The District sent an
10 email to opposing party last week letting them
11 know that we were going to rely on the exhibits
12 that were already in the record and that our one
13 witness would be testifying.

14 CHAIRPERSON ANDERSON: All right.

15 MS. KRUPKE: But we did not receive
16 any kind of information.

17 CHAIRPERSON ANDERSON: And Mr. Newman
18 and -- one of the things that I -- yes, you were
19 not the attorney of record when we had our Status
20 Hearing. And is there any reason why you did not
21 exchange -- I have not received any documents
22 from your side, sir. Is there any reason why you

1 did not provide the Government or the Board with
2 your documents and witnesses?

3 MR. NEWMAN: It is my own negligence,
4 because we were not able to secure witnesses
5 until late, until yesterday, yesterday evening,
6 so I do apologize about that. As for documents,
7 we are relying on the same documents that the
8 Government provided.

9 CHAIRPERSON ANDERSON: Well, in the
10 future and the only reason why I'm -- because one
11 of the things, as an attorney when I practice,
12 people -- you appear in front of us and we have
13 documents and witnesses and no one knows who the
14 witnesses are or the documents. And that's not
15 the way lawyers operate, because notice is always
16 provided to individuals.

17 But because you were not here when
18 this hearing was scheduled and it's not -- I
19 don't think it is in the law that, at least for
20 these practices, we exchange documents and
21 witnesses seven days before, it's fine.

22 But I just want to let you know that

1 moving forward, when we have Protest Hearings, my
2 expectation is that both sides will exchange
3 documents and witnesses seven days before. And
4 if that is not done, then unless good cause can
5 be shown, I am more inclined not to allow
6 witnesses or the documents to come in. Okay.

7 MR. NEWMAN: Appreciate it and
8 understood.

9 CHAIRPERSON ANDERSON: All right.
10 Thank you, sir. All right. Go ahead, Ms.
11 Krupke.

12 MS. KRUPKE: Good morning. We are
13 here today for a Show Cause Hearing that is
14 relying on two separate incidents that
15 demonstrate that Green Island does not follow its
16 own security plan or its own settlement
17 agreement. And we are going to call one witness
18 today, Investigator Kevin Puente, who visited the
19 establishment twice and has -- is able to testify
20 to these individualized violations of the
21 security plan, in addition to other violations of
22 the District of Columbia Code.

1 And so we are going to show that Green
2 Island has demonstrated that it failed to
3 maintain ownership and control of the
4 establishment by allowing other individuals to
5 take a cover charge and did not check IDs.

6 We are going to show that Green Island
7 failed to comply with the provisions of its
8 security plan in numerous ways, including not
9 having any security personnel:

10 (1) Not checking IDs at the doors that
11 were required.

12 (2) Not preparing incident reports,
13 not keeping a security log.

14 And we are also going to demonstrate
15 that because of the security plan violations,
16 other violations of District of Columbia Law have
17 been violated, such as allowing a patron to leave
18 the establishment with an open container of
19 alcohol.

20 And so at the end of this, we are
21 going to seek revocation of this license due to
22 these flagrant violations of the security plan.

1 CHAIRPERSON ANDERSON: Thank you. Mr.
2 Newman, do you wish to make an opening statement,
3 at this juncture, or would -- do you want to make
4 it once -- prior to your case?

5 MR. NEWMAN: I would like to defer.

6 CHAIRPERSON ANDERSON: You'll defer?
7 All right. Does the Government have a witness?

8 MS. KRUPKE: We do. We call
9 Investigator Kevin Puente to the stand.

10 CHAIRPERSON ANDERSON: Mr. Puente,
11 raise your right hand, please.

12 Whereupon,

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

18 INVESTIGATOR PUENTE: Yes, sir.

19 CHAIRPERSON ANDERSON: All right.
20 Thank you. Your witness, Ms. Krupke.

21 All right. Mr. Newman, this is the
22 first thing you have appeared before me? These

1 are -- it's not as formalistic as a Court, so you
2 can object if you so desire and then I need to
3 make a ruling. And so I just wanted to let you
4 know that it is not as formal as in Court, but
5 it's a standard Administrative Hearing.

6 MR. NEWMAN: Thank you.

7 CHAIRPERSON ANDERSON: All right. Go
8 ahead.

9 DIRECT EXAMINATION

10 BY MS. KRUPKE:

11 Q Would you, please, state your name and
12 spell it for the record?

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

14 Q Where do you work?

15 A At the Alcoholic Beverage Regulation
16 Administration.

17 Q What do you do there?

18 A I'm an Investigator.

19 Q How long have you been an
20 Investigator?

21 A Approximately four years.

22 Q And what do you do in the course of

1 your duties as an Investigator?

2 A I conduct inspections and
3 investigations of licensed ABC establishments in
4 the District of Columbia.

5 Q Is one of those establishments Green
6 Island/Heaven & Hell Cafe?

7 A Yes.

8 Q And have you ever visited Green
9 Island?

10 A Yes.

11 Q Approximately how many times?

12 A At least a dozen.

13 Q Today I would like to talk to you
14 about two separate events that happened on two
15 different days.

16 So the first is August 17, 2018. Were
17 you employed as an ABRA Investigator on that day?

18 A Yes.

19 Q Did you visit Green Island/Heaven &
20 Hell that day?

21 A Yes.

22 Q Approximately what time?

1 A It was in the evening, probably around
2 9:00 p.m., that I recall.

3 Q What happened when you arrived?

4 A Myself and my partner at the time,
5 Investigator Mark Brashears, we were assigned to
6 monitor establishments in Adams Morgan. We
7 observed Green Island Cafe/Heaven & Hell. We
8 observed a table out front with two patrons that
9 appeared to be collecting money from people as
10 well as consuming alcoholic beverages.

11 Q And so where were you when you saw the
12 table?

13 A We were across the street sitting in
14 our car.

15 Q How long did you stay in the car
16 before you got out?

17 A Approximately 15 or 20 minutes.

18 Q What did you see over the course of
19 that 15 to 20 minutes?

20 A Several patrons come up to the table,
21 appeared to hand money, then they went inside the
22 establishment.

1 Q And so what did you do after you
2 waited this 15 to 20 minutes?

3 A We contacted the Metropolitan Police
4 Department and asked for assistance and we waited
5 for them to arrive.

6 Q Did they arrive?

7 A Yes.

8 Q And what happened after they arrived?

9 A Sergeant Christian Tobe and some
10 officers arrived. We advised them of the
11 situation and we all walked over.

12 Q Okay. And so when you say you walked
13 over, where exactly did you go?

14 A To the two guys at the table.

15 Q What happened when you approached them
16 at the table?

17 A We identified ourselves and asked if
18 they were employees of the establishment. They
19 said no, they worked for the promoter, they were
20 just there to collect the money and let people
21 in.

22 Q Okay. And did you have any other

1 conversation with them?

2 A Yes. We observed alcoholic beverages.
3 They advised us they were from inside. At that
4 time, they said they were just there to collect
5 the money and that's all they were doing.

6 Q So the alcoholic beverages that they
7 said were from inside, how did you know they were
8 alcoholic beverages?

9 A They were labeled. One was a Heineken
10 beer, one was a Corona beer.

11 Q Okay. And where was this table
12 located?

13 A It was in front of the steps and off
14 the sidewalk a little bit.

15 Q I'm referring to what has been marked
16 as Exhibit 3 in the case file for 18-CMP-00208
17 and providing a copy to counsel.

18 MS. KRUPKE: Permission to approach
19 the witness?

20 CHAIRPERSON ANDERSON: Sure. Go
21 ahead.

22 BY MS. KRUPKE:

1 Q I'm handing you what has been marked
2 as Exhibit 3. Are you familiar with this
3 photograph?

4 A Yes.

5 Q And how are you familiar with it?

6 A I took the photograph.

7 Q Okay. And when did you take the
8 photograph?

9 A When we were waiting for MPD to
10 arrive.

11 Q Did the photograph accurately
12 represent what you saw that evening at Green
13 Island/Heaven & Hell?

14 A Yes.

15 Q And can you describe what you see in
16 the photograph?

17 A The two male guys sitting at the table
18 with the drinks on the table at the table in
19 front of the establishment on the sidewalk.

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

1 No. 3 for identification.)

2 BY MS. KRUPKE:

3 Q And are these the two individuals that
4 you spoke with that evening?

5 A Yes.

6 Q And looking at this picture, can you
7 tell me whether or not this table is on public
8 property or Green Island's property?

9 A To me it's on public property. After
10 talking with MPD, they confirmed that it was on
11 public property as well.

12 Q Okay. And are you familiar with Green
13 Island's sidewalk cafe?

14 A Yes.

15 Q And where in the photograph is the
16 sidewalk cafe located?

17 A It's to the left of that ATM machine
18 right there. There is a fence around it and
19 there are approximately two to three tables with
20 a couple of chairs in it.

21 Q I am now referring to what has been
22 marked as Exhibit 5 in the same investigation

1 case file and showing copies to the opposing
2 counsel.

3 And I'm handing to the witness what
4 has been marked as Exhibit 5. Do you recognize
5 that document?

6 A Yes.

7 Q What is it?

8 A The photograph I took of the table.

9 Q And did you take this photograph on
10 that same evening, August 17, 2018?

11 A Yes.

12 (Whereupon, the above-
13 referred to document was
14 marked as Government Exhibit
15 No. 5 for identification.)

16 BY MS. KRUPKE:

17 Q Does the photograph accurately depict
18 what you saw that evening on the table?

19 A Yes.

20 Q I would like to draw your attention to
21 the two bottles in the photograph. Are those the
22 same bottles that you were describing earlier

1 when you said that there were alcoholic
2 beverages?

3 A Yes.

4 Q Okay. While you were standing outside
5 talking with individuals at the table, did you
6 see anyone go inside Green Island/Heaven & Hell?

7 A Yes.

8 Q And when they went inside, did you see
9 anyone check their IDs?

10 A No.

11 Q And did the individuals at the table
12 check their IDs?

13 A No.

14 Q Were you present for the entirety of
15 any conversation between MPD and Green Island/
16 Heaven & Hell? I'm sorry, the individuals at the
17 table outside?

18 A Yes.

19 Q So what did you do after you spoke
20 with these individuals at the table outside?

21 A Myself and MPD Officers, we went
22 inside and conducted a walk-through.

1 Q As you walked through the door, did
2 you see any security personnel at the door?

3 A No.

4 Q And so you go inside for your walk-
5 through, what -- where do you go?

6 A We walked right up the set of stairs
7 outside and went through the door and right to
8 the left. We went to the first floor. The first
9 floor had a live band playing music,
10 approximately 20 to 30 patrons consuming
11 beverages and listening to the music.

12 Q Did you see any security personnel as
13 you walked around?

14 A No. The only person that we saw was
15 a bartender behind the bar and a cook in the
16 kitchen.

17 Q All right. So what did you do after
18 you were on that floor?

19 A We went to the second floor to see
20 what was occurring on the second floor.

21 Q And what was occurring on the second
22 floor?

1 A The same thing, music as well as a
2 bartender. Then I observed the owner in the
3 corner and approached him.

4 Q What happened after you approached the
5 owner?

6 A I identified myself. We asked him to
7 step outside, because the music was too loud to
8 talk inside.

9 Q And when you say the owner, who do you
10 mean?

11 A Mr. Weldemariam.

12 Q And is he present in this room here
13 today?

14 A Yes.

15 Q And where is he?

16 A Sitting to the left of you.

17 Q And so what did you do after you all
18 agreed to go talk somewhere?

19 A We went back outside to the table.
20 MPD asked him why the patrons were on the
21 sidewalk consuming alcoholic beverages. Why is
22 he allowing a third-party to take over the

1 establishment?

2 We advised him that there was no one
3 checking IDs. Patrons were still walking in and
4 no one was stopping them to check IDs or
5 anything.

6 Q Okay. So let's break that down a
7 little bit.

8 A Um-hum.

9 Q What did the owner say in response to
10 the patrons.

11 A That the two patrons should have been
12 checking IDs or the two guys at the table should
13 have been checking IDs.

14 Q Okay. Did he mention any other
15 security personnel that were present in the
16 establishment at the time?

17 A No.

18 Q Did he have any explanation as to who
19 the individuals were that were seated at the
20 table?

21 A Not from what I can recall.

22 Q Okay. And so as you were standing

1 outside having this conversation, did you see any
2 other patrons enter the establishment without
3 having their IDs checked?

4 A Yes.

5 Q And approximately how many?

6 A One or two.

7 Q Okay. So over the course of the time
8 that you were there, how many individuals do you
9 think went into the establishment without having
10 their IDs checked, approximately?

11 A From what I saw, approximately, five.

12 Q Okay. And so just to be clear, did
13 you see any security personnel that were either
14 inside, outside, anywhere at Green Island/Heaven
15 & Hell that day?

16 A No, not from -- not at all.

17 Q Did you observe any other activity
18 that, in your mind, was a violation of ABRA
19 Regulations?

20 A Yes.

21 Q What was that?

22 A As we were -- MPD, us and the owner

1 were outside talking, a female came walking out
2 with an alcoholic beverage and started to walk
3 off down the sidewalk. MPD had to stop her.

4 Q Okay. So how did you know it was an
5 alcoholic beverage?

6 A It was labeled. It was a labeled beer
7 bottle.

8 Q All right. And how did MPD stop her?

9 A Oh, they immediately approached her,
10 identified them and stopped her and said she
11 can't be drinking alcohol on public space.

12 Q So at the time that they stopped her,
13 she had already left Green Island/Heaven & Hell?

14 A Yeah, she went up the stairs and
15 started walking left down 18th Street.

16 Q Approximately, how far did she get?

17 A Quite a few steps before they stopped
18 her.

19 Q So earlier I mentioned I would like to
20 speak with you about two different incidents, so
21 now I would like to switch to the second.

22 And so that's the one that occurred on

1 November 11, 2018. Do you know what I'm
2 referring to?

3 A Yes.

4 Q And so were you employed in the
5 position as an ABRA Investigator on November 11,
6 2018?

7 A Yes.

8 Q Did you go to Green Island that day?

9 A Not November 11, '18.

10 Q Okay. So how did you know that there
11 was an incident that happened?

12 A I was assigned an MPD-251
13 investigation report regarding a patron who
14 alleged that he was given poisoning in his
15 alcoholic beverage.

16 Q What did you do when you received that
17 information?

18 A I started my investigation. I
19 contacted MPD, the officers who went to the
20 establishment that night. I had talked with the
21 officer. He advised me that him and his partner
22 were getting dinner in Adams Morgan. They were

1 flagged down by an upset male who claimed that he
2 was just poisoned inside Heaven & Hell.

3 Q And did you conduct an investigation
4 related to that allegation?

5 A Yes.

6 Q What did you do in the course of your
7 investigation?

8 A MPD -- I asked -- I contacted MPD.
9 They advised me that no calls were made to the
10 Office of the Unified Command or 911. They only
11 -- they were flagged down by the officers. Their
12 records show that they were flagged down and no
13 call was made by the establishment for the
14 victim.

15 I tried contacting the victim. He
16 didn't call me back or answer my phone calls. So
17 then I went to the establishment later that week
18 to conduct a regulatory inspection and talk with
19 the owner.

20 Q And so what happened when you went to
21 the establishment to talk with the owner?

22 A I went to talk to him and advised him

1 of the incident. He advised me that night he
2 accidentally grabbed the wrong bottle and
3 accidentally put it in the drink. He advised me
4 he was the only one working that night. It was
5 near closing time almost, so it was just him
6 working and then the accident happened with the
7 solution.

8 Q Did he say that there were any other
9 security personnel or anyone on hand at the time
10 of the incident?

11 A No, because it was nearly -- it was
12 almost closing time.

13 Q Did you ask to see an incident report
14 to it?

15 A Yes.

16 Q What did he do?

17 A He didn't have one.

18 Q Did he have a security log that he
19 could show you?

20 A No, not that I recall.

21 Q Are you aware if Green Island has a
22 security plan?

1 A Yes, they do.

2 Q How are you aware that they have one?

3 A It's in ABRA records.

4 Q And did you access those records
5 yourself?

6 A Yes.

7 MS. KRUPKE: I am referring to what
8 has been marked as Exhibit 8, the Security
9 Handbook. This is from the same Case No. 18-CMP-
10 00 -- I'm sorry, it's a different -- I think this
11 is -- yeah -- no, this is actually from 18-CMP-
12 00208, but should be the same as the exhibit that
13 was provided with 18-251-00219, the Security
14 Handbook.

15 (Whereupon, the above-
16 referred to document was
17 marked as Government Exhibit
18 No. 8 for identification.)

19 MS. KRUPKE: I will provide Exhibit 8
20 to the witness.

21 BY MS. KRUPKE:

22 Q Have you seen this before?

1 A Yes.

2 Q What is it?

3 A It's a security plan that ABRA has on
4 file.

5 Q How do you know that it's the security
6 plan that ABRA has on file?

7 A It's -- on the security plan we have
8 records with all security plans labeled by
9 establishment.

10 Q Okay. So I would like to draw your
11 attention to a few provisions that are in here.
12 So starting on page 3 of the security, in
13 paragraph 1, can you read beginning with the
14 first line of defense?

15 A Yes. The first line of defense is the
16 front door staff. Two security personnel should
17 always be positioned at the entrance. The front
18 door staff checks IDs to ensure that people
19 seeking entrance are of legal age, 21. Green
20 Island/Heaven & Hell only accepts the following
21 forms of identification:

22 (1) A valid state picture operator's

1 license.

2 (2) A valid state or federal picture
3 ID.

4 (3) A valid military picture ID.

5 (4) A valid passport with a picture
6 attached.

7 Q Okay. And can you turn to page 5 of
8 the security plan? And I would like you to read
9 on page 5 the first paragraph below the header
10 inside security staff.

11 A The next and final line of defense is
12 the inside security staff, floor men. The inside
13 security staff should be positioned throughout
14 the property, particularly at all exits, bars and
15 at dance floors. The job of the inside security
16 staff is to monitor the crowd and ensure that no
17 one becomes unruly, deterrence and prevention
18 first.

19 Q And then turning to page 7 of the same
20 document, can you read the paragraph underneath
21 the title incident report?

22 A Whenever an incident occurs inside or

1 outside the establishment, security personnel
2 involved must fill out an incident report. This
3 report must include all the proper and correct
4 information. Management must then review the
5 report for accuracy then record the document in
6 the security log.

7 Q And do you know if the security plan
8 was approved by the Board?

9 A Yes.

10 Q Do you know the date that that
11 occurred?

12 A It looks like it is time stamped on
13 top on January 14, 2010.

14 Q And so you are looking at the first
15 page of Exhibit 8 when you refer to that?

16 A Yes.

17 Q Are you aware whether or not Green
18 Island has a settlement agreement?

19 A Yes, they do.

20 Q How did you become aware of that?

21 A It's in ABRA records.

22 Q Did you access those records yourself?

1 A Yes.

2 Q I'm referring to what has been marked
3 as Exhibit 9, but this is also from 18-CMP-00208,
4 but it is also included in the report for the
5 corresponding Case 18-251-00219.

6 CHAIRPERSON ANDERSON: You said
7 Exhibit 9?

8 MS. KRUPKE: Yes.

9 (Whereupon, the above-
10 referred to document was
11 marked as Government Exhibit
12 No. 9 for identification.)

13 CHAIRPERSON ANDERSON: I don't have
14 that one. Hold on.

15 MS. KRUPKE: The security plan and
16 settlement agreement were included in both
17 incident reports, so we just have one copy here
18 today.

19 CHAIRPERSON ANDERSON: Okay. All
20 right. Go ahead. I'm sorry.

21 MS. KRUPKE: I'm showing a copy of
22 Exhibit 9 to opposing counsel and handing a copy

1 of Exhibit 9 to the witness.

2 BY MS. KRUPKE:

3 Q Do you recognize Exhibit 9?

4 A Yes.

5 Q What is it?

6 A The settlement agreement.

7 Q Well, how do you know that's what it
8 is?

9 A It says in the document it's the
10 settlement agreement.

11 Q Okay. And you have seen this before?

12 A Yes.

13 Q When did you see it before?

14 A When I was writing my case reports.

15 Q Okay. And did you access this
16 document directly from the ABRA records?

17 A Yes.

18 Q And is it a true and accurate copy of
19 the settlement agreement as you are familiar with
20 it?

21 A Yes.

22 Q Do you know whether or not the

1 settlement agreement was approved by the Board?

2 A Yes, it was.

3 Q Do you know the date that occurred?

4 A Give me one second, please. On
5 November 16, 2011.

6 Q And are you providing that date based
7 on a date that is stated in the settlement
8 agreement itself?

9 A Yes, on page 2.

10 Q I would like to draw your attention to
11 a provision of the settlement agreement in § 1.5.
12 It is page 3 of the actual agreement. So can you
13 read the fourth paragraph in § 1.5 beginning with
14 the sentence alcoholic beverages? The middle of
15 that paragraph.

16 A "Alcoholic beverage should not be
17 carried by patrons from the upper levels, first
18 and second floor out the main entrance of 2327
19 18th Street, N.W., onto areas that are not
20 licensed. There is a sidewalk cafe. It shall
21 not be used as a place to form a line for entry
22 to the establishment."

1 MS. KRUPKE: I will retrieve the
2 exhibits from the witness and then I have no
3 further additional questions.

4 CHAIRPERSON ANDERSON: You say you
5 have no further questions?

6 MS. KRUPKE: Correct.

7 CHAIRPERSON ANDERSON: Okay. Mr.
8 Newman?

9 CROSS-EXAMINATION

10 BY MR. NEWMAN:

11 Q Good morning, Mr. Puente.

12 A Good morning.

13 Q What time did you say that you arrived
14 at the establishment?

15 A I believe around 9:00 p.m. or so.

16 Q Okay. Did you, at any point in time,
17 document that you arrived around 10:15, an hour
18 later?

19 A Yes, in my case report.

20 Q I'm sorry?

21 A Yes, in my case report.

22 Q Okay. And why was that discrepancy?

1 A Just -- I don't have my case report in
2 front of me, so --

3 Q Okay. When you arrived, you remained
4 in the car across the street?

5 A Yes.

6 Q Okay. And who was with you?

7 A Investigator Mark Brashears.

8 Q Okay. How many -- you said that you
9 visited the establishment at least a dozen times.
10 Over what period of time?

11 A The last four years.

12 Q Okay. And what was the purpose of
13 those visits?

14 A Being assigned a 251 investigation, to
15 do a regulatory inspections, monitoring the
16 establishments in Adams Morgan.

17 Q Okay. When you -- you said that when
18 you arrived, that there were two people sitting
19 outside the table?

20 A Yes.

21 Q At any point in time did you find out
22 if that were -- and you said they stated that

1 they were a part of a group that was going on
2 there?

3 A Yeah, they worked for the promoter.

4 Q Okay. Did you speak with the
5 promoter?

6 A Just those two guys.

7 Q Okay. When you spoke with Mr.
8 Weldemariam, did you ask him if -- how -- what
9 the relationship was between the promoter and
10 him?

11 A I believe MPD was asking questions
12 about those two guys.

13 Q Did you ask?

14 A No.

15 Q Okay. Did you ever -- were you ever
16 informed by Mr. Weldemariam what the relationship
17 was for that event?

18 A No.

19 Q Okay. The alcoholic beverages that
20 you saw, did -- do you know where they came from?

21 A They said inside the establishment.

22 Q Okay. And did they, at any point in

1 time, say they were -- no one asked them for
2 their ID?

3 A They said they worked for the
4 promoter, so --

5 Q Okay. And so that means?

6 A To us, they were at the establishment
7 working that night.

8 Q Okay. All right. When you were
9 standing outside, you said you saw people going
10 into the establishment, correct?

11 A Yes.

12 Q All right. Now for purposes of the --
13 everyone here, there is a landing on the outside
14 and there is also a landing on the inside of the
15 door, correct?

16 A Yes.

17 Q Right. Are you able to see inside the
18 door when you are standing outside?

19 A Not from where I was in the car, no.

20 Q Okay. When you were standing on the
21 sidewalk, were you able to see inside the door?

22 A Yes, up the stairs.

1 Q Okay. Inside the door?

2 A Yes, the door was wide open.

3 Q Okay. When the door was wide open, is
4 there not an area behind the wall that is the
5 frame of the door?

6 A Yes. If you turn left, go to that
7 first floor area.

8 Q Right. I'm talking about when you are
9 on the sidewalk.

10 A Yes.

11 Q Okay. Were you able to see if anyone
12 was checking IDs inside the door?

13 A No, not outside.

14 Q Okay. When you went inside, did you
15 see anybody there checking IDs?

16 A No. No one was near that door stop or
17 anything.

18 Q Okay. I want to ask you about the
19 security plan for a second. The -- well, let me
20 go back on security.

21 How do you -- you said you've been
22 there about a dozen times?

1 A Yes.

2 Q How do you usually recognize security?

3 A They are usually in all black. I
4 usually -- from my four years, I recognize most
5 of the security detail now, but they are usually
6 all dressed in all black. There is usually
7 someone standing at the front door. There are
8 several people inside standing and roaming.

9 Q And those other times that you have
10 gone there, what time has that been,
11 approximately?

12 A All throughout the night. I don't
13 have specific times. Anywhere from 7:00 p.m. to
14 4:00 a.m.

15 Q When you have been there at 7:00 p.m.,
16 have you seen security?

17 A Not that I recall, no.

18 Q Okay. When you have been there at
19 8:00 p.m., have you seen security?

20 A No.

21 Q When you have been there at 11:00
22 p.m., have you seen security?

1 A Yes.

2 Q Okay. At 8:00 p.m. or 7:00 p.m. when
3 you have gone there, has the restaurant been
4 open?

5 A Usually sometimes it's open, sometimes
6 it's closed. It just depends.

7 Q Okay. And when you have gone there
8 before 10:00 or 11:00 p.m., is there -- what kind
9 of activities have been going on when you have
10 been there?

11 A People just sitting at the bar
12 drinking, people relaxing and drinking. No --
13 maybe music, if I recall, but nothing, no DJ or
14 anything playing. Nothing like that.

15 Q Has there ever been a comedy program,
16 comedy show?

17 A I think a few times I have been there.

18 Q Okay. After 11:00 or let's say after
19 11:00, about how many times have you been there
20 after 11:00?

21 A Quite a bit. I don't have the exact
22 number for you.

1 Q Okay. More than half, less than half?

2 A More than half.

3 Q Okay. And when you have been there
4 after 11:00, have you seen security?

5 A Yes.

6 Q All right. And they have been at the
7 door?

8 A Yes.

9 Q And they have been outside at the
10 bottom of the steps?

11 A Yeah, usually next to the owner and
12 his wife collecting the cover charge.

13 Q Okay. And you have seen them floating
14 around as well?

15 A Yes.

16 Q All right. So regarding the security
17 plan that counsel showed you, when or where does
18 it state -- well, let me go specifically.

19 I want to take you to page 3 of the
20 security plan.

21 A Can I get a copy of it?

22 Q Oh, I'm sorry, I thought you --

1 CHAIRPERSON ANDERSON: What exhibit is
2 that, please?

3 MR. NEWMAN: It would be counsel's
4 Exhibit, what number was it, 8.

5 CHAIRPERSON ANDERSON: You have to
6 remember you need to identify the documents in
7 the record, so that --

8 MR. NEWMAN: I apologize. I was
9 referencing what was already --

10 CHAIRPERSON ANDERSON: All right.

11 MR. NEWMAN: -- in the record. So I
12 apologize. Exhibit --

13 CHAIRPERSON ANDERSON: No, but
14 remember it is being transcribed, so --

15 MR. NEWMAN: All right.

16 BY MR. NEWMAN:

17 Q That's the security plan?

18 A Yes.

19 Q Okay. In the security plan, does it
20 also talk about, I believe it is the second to
21 the last paragraph, bartenders checking IDs?

22 A Yes.

1 Q Okay.

2 MR. NEWMAN: May I approach?

3 CHAIRPERSON ANDERSON: Sure.

4 BY MR. NEWMAN:

5 Q The paragraph that says inside
6 security staff, you read that before, but isn't
7 that correct it talks about monitoring the crowd
8 to ensure they don't become unruly?

9 A Yes.

10 Q Okay. At the top of that same page
11 where it talks about other duties included, what
12 is the second bullet on the top of that page?

13 A "Maintain awareness of and control
14 club patron capacity. The number of customers
15 and club employees and entertainers should never
16 exceed the Fire Code capacity."

17 Q Okay. I want to ask you about the
18 incident reports. Who is responsible for
19 completing the incident report?

20 A Usually the security personnel or
21 establishment staff.

22 Q Okay. And what is the purpose of

1 doing the incident report?

2 A It documents whenever an incident
3 occurs.

4 Q Well, what does the settlement
5 agreement say the purpose of the incident report
6 is?

7 A Just -- you mean the security plan?

8 Q Yeah, sorry, in the security plan,
9 yes.

10 A Whenever an incident occurs inside the
11 establishment or outside the establishment,
12 security personnel involved must fill out an
13 incident report. The report must include all the
14 proper and correct information. Management must
15 review and approve the report for accuracy, then
16 record the document in the security log.

17 Q Okay. Thank you.

18 A Um-hum.

19 Q Is it your understanding that the
20 security plan is to be there? Based on what you
21 just read, did you understand the security plan
22 is to be enforced every time that the club is

1 open?

2 A Yes.

3 Q What is that based on?

4 A ABRA records, law, I believe. If you
5 have a security plan, you are supposed to adhere
6 to the security plan at all times you are
7 operating.

8 Q Is there supposed to be security at
9 the facility at every moment they are open?

10 A Unless it's documented in the security
11 plan when they should report.

12 Q Okay.

13 A From my experience.

14 Q Okay. Does the security plan -- you
15 have reviewed the security plan multiple times,
16 correct?

17 A Yes.

18 Q At any point in time does it say when
19 security should be there?

20 A Not from what I recall.

21 Q Okay. Does it say when they should
22 not be there?

1 A Not from what I recall, no.

2 Q Does the security plan, as you read,
3 talk about crowd control?

4 A Oh, yes, that section I just read.

5 Q Okay. When you went -- I want to
6 bring your attention to November 11th. When you
7 went to the establishment on November 11th, how
8 many people were in the establishment?

9 I'm sorry. How many people were you
10 told were in the establishment on November 11th?

11 A I was told there was just -- by the
12 owner, it was him and another patron and maybe
13 one other person.

14 Q Okay. So there was no crowd there at
15 that time?

16 A I wasn't there that night, so I can't
17 answer that.

18 Q As far as you know? As far as you
19 understand?

20 A Yes.

21 Q And testified, there was no crowd?

22 A Yes.

1 Q All right. Who was serving as the
2 bartender?

3 A I was told the owner was.

4 Q Okay. Do you know if he checked IDs
5 before serving the drink?

6 A I do not know that.

7 Q Okay. All right.

8 MR. NEWMAN: Indulgence, please.

9 CHAIRPERSON ANDERSON: Sure.

10 BY MR. NEWMAN:

11 Q On the 17th of August, going back to
12 the 17th of August, why did you -- you said MPD
13 called you?

14 A I called MPD.

15 Q You called MPD?

16 A Yes.

17 Q What was your reason for going to the
18 establishment on August 17, 2018?

19 A The reason why I called or the reason
20 why I went to the establishment?

21 Q The reason why you went to the site.

22 A Oh, we observed the table out front

1 and the two guys at the table.

2 MEMBER SILVERSTEIN: Say again,
3 please.

4 THE WITNESS: We observed the table
5 outside on the sidewalk and the two guys sitting
6 at the table.

7 BY MR. NEWMAN:

8 Q Correct me if I'm wrong. Who observed
9 that?

10 A I did.

11 Q What caused you to go and make that
12 observation?

13 A I was assigned to monitor Adams Morgan
14 that night.

15 Q Okay. Now, you said that they were
16 standing or the table was set up at the bottom of
17 the steps?

18 A Yes, in front of the steps.

19 Q In front of the steps. Do you know
20 what the boundaries of the license is, consist
21 of?

22 A I do not know.

1 Q Okay. When MPD -- you testified that
2 MPD told you that it was public property?

3 A Yes.

4 Q Did MPD, to your knowledge, check the
5 boundaries of the license?

6 A I do not know that.

7 Q Okay. In your report, you said that
8 the establishment intentionally allowed someone
9 to walk out with alcoholic beverage. Do you have
10 the name of that person?

11 A Of the female?

12 Q Yes.

13 A No, I do not.

14 Q Okay. When -- where were you standing
15 when you saw that occur?

16 A In front of the table.

17 Q In front of the table, okay. And you
18 saw her with the beverage in her open hand?

19 A Yes.

20 Q All right. As an Investigator, did
21 you just let her walk past you and continue going
22 down the block or did you -- what did you do?

1 A No, MPD stopped her.

2 Q If I -- where did MPD stop her?

3 A Outside the establishment.

4 Q Could you be a little more specific?

5 A So as we were talking to Mr.

6 Weldemariam, the female came down the stairs and
7 we all -- as she got right past us, we saw her
8 with a drink, that's when MPD turned around and
9 stopped her.

10 Q Okay. So you actually witnessed her
11 coming down the steps with a drink?

12 A Yes.

13 Q Okay. Did you tell Mr. Weldemariam or
14 anybody anything about her coming down the
15 establishment or did you ask her to stop?

16 A Yes, we all reacted and MPD went and
17 stopped her. Then Sergeant Tobe advised --

18 Q I'm sorry. I have a different -- my
19 question is different.

20 Did you tell her to stop when you saw
21 her coming down the steps?

22 A I didn't tell her to stop, no.

1 Q Okay. Do you know if Mr. Weldemariam
2 saw her?

3 A No, because he was facing us.

4 Q Okay. And did MPD ever go into the
5 facility that night?

6 A Yes.

7 Q And they went to all the floors, as
8 you testified?

9 A Yes.

10 Q All right.

11 MR. NEWMAN: I have no other
12 questions.

13 CHAIRPERSON ANDERSON: Thank you. Any
14 questions by any Board Members? All right. I'll
15 ask while you guys -- Mr. Puente, just tell me
16 again about your testimony regarding the patron
17 leaving the establishment with the drink. Tell
18 that. Go -- tell me exactly what happened.

19 THE WITNESS: So as we were outside
20 talking with Mr. Weldemariam and we were talking
21 to the two guys at the table as well, Mr.
22 Weldemariam was facing us. I was facing the

1 establishment. Mr. Weldemariam had his back to
2 the establishment.

3 As we were talking, we observed a
4 female walking down the stair and as soon as she
5 got right next to us, we saw that she had the
6 drink in her hand. She kind of walked right past
7 us. MPD immediately stopped her. We advised him
8 that no one is at the door, there is no security.
9 The patron just walked out with an alcoholic
10 beverage.

11 CHAIRPERSON ANDERSON: Now, were -- so
12 you are saying that Mr. -- but Weldemariam was
13 also outdoors. Is that correct?

14 THE WITNESS: Yes, he was talking to
15 us.

16 CHAIRPERSON ANDERSON: And the two
17 people who I guess Mr. -- the two people at the
18 table, what were they doing?

19 THE WITNESS: They were just sitting
20 at the table listening.

21 CHAIRPERSON ANDERSON: So were they --
22 so they had all your attention. Is that -- did

1 they have your attention?

2 THE WITNESS: Yes.

3 CHAIRPERSON ANDERSON: And that
4 everyone was paying attention to the questions
5 you were asking?

6 THE WITNESS: Yes.

7 CHAIRPERSON ANDERSON: All right.
8 Okay.

9 MR. NEWMAN: May I follow-up?

10 CHAIRPERSON ANDERSON: No, sir, not
11 yet. No, no, because Ms. Krupke and -- so it's
12 not -- so no.

13 All right. Any other questions by any
14 other Board Members? All right. Hearing none,
15 Ms. Krupke, any questions of the witness based
16 on, well basically, the questions that I had
17 asked?

18 MS. KRUPKE: I --

19 CHAIRPERSON ANDERSON: The board has
20 asked.

21 MS. KRUPKE: -- did have questions
22 based on --

1 CHAIRPERSON ANDERSON: I'm sorry.

2 Correct, yeah. Yes. I was -- I apologize.

3 Based on cross, yes.

4 MS. KRUPKE: Okay.

5 REDIRECT EXAMINATION

6 BY MS. KRUPKE:

7 Q All right. You testified that you
8 spoke with the individuals at the table and were
9 you present when MPD was questioning those
10 individuals?

11 A Yes.

12 Q And what questions did they ask of
13 those individuals?

14 A They asked them for their IDs. They
15 ran then once they got their IDs.

16 MR. NEWMAN: I'm going to object on
17 that.

18 CHAIRPERSON ANDERSON: I'm sorry,
19 what's the nature of the objection?

20 MR. NEWMAN: The police are not here
21 to testify what they actually said or what they
22 asked.

1 MS. KRUPKE: We had a lot of hearsay
2 here today and this is directly related to a
3 question that he asked of the witness, which was
4 whether or not he spoke with these individuals
5 about the promoters and he said that MPD did. So
6 I was wondering what exactly was said.

7 MR. NEWMAN: And --

8 CHAIRPERSON ANDERSON: Yes, sir.

9 MR. NEWMAN: -- may I? Excuse me.
10 And his response was that MPD did like stop him
11 right there. I'm asking what MPD said to them.
12 I just asked if he spoke to the promoters and
13 asked them what they were doing.

14 CHAIRPERSON ANDERSON: I'm going to
15 overrule the objection. It's -- I get where you
16 are going, but we are not as formalistic, so for
17 me it's not that -- but I'll overrule the
18 objection. So you can answer the question.

19 BY MS. KRUPKE:

20 Q So what did MPD ask them?

21 A They asked if they worked for the
22 establishment and they said no, they worked for

1 the promoter.

2 Q Have you ever visited Green Island/
3 Heaven & Hell at approximately 9:00 in the
4 evening?

5 A Yes.

6 Q Did you observe security then?

7 A No.

8 Q And have you ever -- remind me again
9 the time of the incident, approximately, on
10 August 17, 2018.

11 A Approximately 10:00 p.m.

12 Q Okay. So earlier when you testified
13 that it was approximately 9:00 p.m., were you
14 mistaken?

15 A Mistaken, yes.

16 Q Okay. And so it was approximately
17 10:00 p.m. that you arrived?

18 A Yes.

19 Q How long over the course of the
20 evening did you stay?

21 A During the incident, so approximately
22 30, 45 minutes.

1 Q And during that time, did you ever see
2 security personnel at the front door of Green
3 Island?

4 A No.

5 Q I would like to draw your attention to
6 the security plan. This was Exhibit 8. I
7 believe this is page 5.

8 So under the paragraph that is headed
9 Bartenders and Servers, can you read that to
10 yourself?

11 A Okay.

12 Q Earlier Green Island's counsel asked
13 you a question as to whether or not the
14 bartenders and servers were required to check IDs
15 as part of the security plan. You testified, I
16 hope I'm quoting you correctly, that they were
17 required to.

18 Do you have any amendments to your
19 earlier statement after reading this section?

20 A As to what?

21 Q As to whether or not that is correct?
22 As to whether the security plan requires them to

1 check ID.

2 A I believe in the ID Section it talks
3 about the bartenders checking IDs.

4 Q Okay. And where is that?

5 A I do not see it in that section.

6 Q Okay. When you were standing outside
7 and the patron left Green Island with the
8 alcoholic beverage, did Mr. Weldemariam make any
9 effort to stop this individual?

10 A No, because he didn't see the
11 individual coming down. MPD had already stopped
12 and went and got her.

13 Q And were there any other security
14 personnel that you were aware of that evening
15 that could have stopped her, other than Mr.
16 Weldemariam?

17 A No.

18 MS. KRUPKE: No further questions.

19 CHAIRPERSON ANDERSON: Mr. Newman, I
20 made an error and so you -- based on the question
21 I asked, you are allowed to ask questions of the
22 witness, based on the question that I asked.

1 MR. NEWMAN: Thank you.

2 CHAIRPERSON ANDERSON: Okay. No
3 further grounds. All right.

4 MR. NEWMAN: Okay.

5 RE-CROSS-EXAMINATION

6 BY MR. NEWMAN:

7 Q You, Mr. Puente, responded to the
8 Chairman that the person coming out of the
9 establishment had the beer or had the beverage,
10 alcoholic beverage. And then when she came down
11 the steps and passed you, you noticed that it was
12 alcoholic.

13 A Yes.

14 Q Is that correct?

15 A Yes.

16 Q Okay. So at no point in time prior to
17 that standing in front of the steps, looking up,
18 were you or the police or anybody else able to
19 notice that someone was walking out of there with
20 alcohol until they came down next to you?

21 A I was engaged in the conversation. I
22 wasn't paying attention to her until she got near

1 us.

2 Q Were the police engaged in that
3 conversation?

4 A Yes.

5 Q So the police, so everyone was talking
6 at that time?

7 A Yes, we were all in a circle, so where
8 I was, I was facing the two patrons and Mr.
9 Weldemariam and concentrating on the Sergeant at
10 the same time.

11 Q Okay. So at no point did Mr.
12 Weldemariam know or allow or permit her to come
13 down the steps with the alcohol?

14 MS. KRUPKE: Objection.

15 MR. NEWMAN: Based on your perception?

16 MS. KRUPKE: Asks personal knowledge
17 as to what Mr. Weldemariam knew.

18 MR. NEWMAN: Well, one of the charges
19 is that he knowingly allowed someone to walk out
20 with alcoholic beverage.

21 CHAIRPERSON ANDERSON: It says allowed
22 patron to leave the establishment with an

1 alcoholic beverage. It didn't say -- it just --

2 MR. NEWMAN: It specifically said that
3 he knowingly allowed him to do it.

4 CHAIRPERSON ANDERSON: I'm looking at
5 the -- well, one minute. I don't have the
6 charging document in front of me, but at least
7 the document -- at least what I'm reading in
8 front of me, it says allow a patron to leave the
9 establishment with an alcoholic beverage.

10 I mean, does someone have the charging
11 document in front of them?

12 MS. KRUPKE: I do.

13 CHAIRPERSON ANDERSON: Does it say
14 allow or what is it -- or knowingly? What does
15 it say?

16 MS. KRUPKE: It does charge "You
17 knowingly allowed a patron to exit the
18 establishment with an alcoholic beverage in an
19 open container."

20 CHAIRPERSON ANDERSON: I'll allow the
21 question then, since -- based on how the charge
22 is terms.

1 BY MR. NEWMAN:

2 Q So based on the facts that you
3 presented and that you testified to, did Mr. --
4 was Mr. Weldemariam able to knowingly allow
5 someone to walk out of the establishment?

6 A I can't answer what he saw or what he
7 did.

8 Q Did you not previously testify that
9 his back was to --

10 A Yes, I did.

11 Q -- and that he could not see her
12 coming out the door?

13 A Yes.

14 Q Okay. Thank you.

15 CHAIRPERSON ANDERSON: Do you have any
16 other questions?

17 MR. NEWMAN: Oh, no, I'm --

18 CHAIRPERSON ANDERSON: Oh, I was
19 waiting.

20 MR. NEWMAN: -- sorry.

21 CHAIRPERSON ANDERSON: I'm taking
22 notes and I was waiting.

1 MR. NEWMAN: You needed me to follow
2 it up on --

3 CHAIRPERSON ANDERSON: No.

4 MR. NEWMAN: -- your question. I have
5 no more follow-up on that.

6 CHAIRPERSON ANDERSON: It was -- it is
7 only, yes. I mean, because the Government has
8 the burden, so I ask Ms. Krupke do you have any
9 questions on that specific point? And you have
10 the final word.

11 RE-REDIRECT EXAMINATION

12 BY MS. KRUPKE:

13 Q Did Mr. Weldemariam make any
14 statements after the patron was allowed to leave
15 with the alcohol that indicated whether or not he
16 knew what was happening?

17 A I can't recall.

18 Q Did Mr. Weldemariam make any
19 statements as to whether or not there were or
20 should have been security officers on hand that
21 day that could have prevented that from
22 happening?

1 A No, no that I can recall.

2 MS. KRUPKE: No further questions.

3 CHAIRPERSON ANDERSON: All right.

4 Thank you. Does the Government have -- all
5 right. Thank you, Mr. Puente for your testimony.

6 You can go. Thank you.

7 Does the Government have any other
8 witnesses?

9 MS. KRUPKE: We do not.

10 CHAIRPERSON ANDERSON: Does the
11 Government rest at this juncture?

12 MS. KRUPKE: At this time, yes.

13 CHAIRPERSON ANDERSON: All right.

14 Thank you. All right. Mr. Newman, do you wish
15 to make your opening statement?

16 MR. NEWMAN: Yes. But first, at this
17 time, I would like to have the Charge No. 3
18 dismissed because the Government was unable to
19 prove that Mr. Weldemariam knowingly allowed the
20 patron to exit --

21 CHAIRPERSON ANDERSON: You mean No. 4?

22 MR. NEWMAN: -- No. --

1 CHAIRPERSON ANDERSON: 4.

2 MR. NEWMAN: -- in the documents that
3 we have, it's Charge No. 3.

4 CHAIRPERSON ANDERSON: You see, I
5 don't have the document.

6 MR. NEWMAN: So --

7 CHAIRPERSON ANDERSON: But I'm looking
8 at another document and it says No. 4, so that's
9 why I'm trying to figure out what. But the
10 charge is to allow the Government -- the patron
11 to leave the -- allow the -- all right.

12 Okay. So you are asking the Board to
13 -- you are saying the Government hasn't met its
14 burden for the charge about to allow a patron to
15 knowingly leave the establishment. That's your--

16 MR. NEWMAN: Correct.

17 CHAIRPERSON ANDERSON: Ms. Krupke?

18 MS. KRUPKE: The Government has
19 introduced evidence that shows that there were
20 not other security personnel on hand that could
21 have prevented this sort of incident.

22 And at this time, the only -- the

1 evidence only shows that the only security
2 personnel on hand was Mr. Weldemariam. If at
3 this time Mr. -- Green Island wants to concede
4 that point, I think that the Government would
5 concede that we are not able to meet our burden.

6 But I highly doubt that Green Island
7 wants to concede that point. And so I think at
8 this time, it is premature to dismiss this
9 charge, as we do not know whether or not Mr.
10 Weldemariam is contending that he had security
11 personnel on hand at the time or that he did not.

12 CHAIRPERSON ANDERSON: Mr. Newman?

13 MR. NEWMAN: Well, in regard to having
14 security or not, the knowingly means that he had
15 an intent to -- whatever schedule or whatever
16 staffing was there, it was his intention to
17 permit someone to walk out the door.

18 The one manager who was there and
19 owner, they took outside and so if he, in fact,
20 was the only person responsible for managing
21 that, he was no longer there.

22 So and he also testified his back was

1 to him. Under no circumstance could they find
2 that he actually had them, the thought process,
3 the mentality to allow someone to actually
4 intentionally leave? He didn't consent. He
5 didn't give them permission. At best, it's
6 negligence, but it's not knowingly permitting
7 someone to leave with alcohol.

8 CHAIRPERSON ANDERSON: All right.
9 I'll take your motion under advisement, so I'm
10 not going to make a ruling on that, at this
11 juncture, but I'll take it under advisement. You
12 can renew it at the end of your case.

13 And at the end of your presentation
14 and when we take this for further discussion, the
15 Board will -- I'll make a ruling. The Board will
16 make a ruling on your motion, at that time.

17 MR. NEWMAN: Thank you.

18 CHAIRPERSON ANDERSON: Thank you.

19 MR. NEWMAN: So at this time, I'm
20 going to keep it very brief. So I'll let the
21 witnesses do the talking.

22 All these charges are predicated on a

1 couple of facts. And one is, we already talked
2 to knowingly, so I won't cover that one.

3 The other one is that Mr. Weldemariam
4 gave up control of his establishment to a third-
5 party. You will hear that that is not the case,
6 that did not occur on April 17th.

7 And the other one is predicated on the
8 security plan. There is nothing in the security
9 plan or even in the settlement that says he is
10 supposed to have security there 24 hours a day or
11 any time that he is open.

12 In fact, as Mr. Puente has already
13 stated that -- let me back up. You will hear
14 that, as Mr. Puente stated, prior to 11:00, it is
15 an open establishment for comedy, food and
16 activities. You will also see that there is
17 language in the security plan that talks about
18 the bartenders in absence of the security
19 checking IDs, which is customary for any
20 restaurant establishment that has a liquor
21 license.

22 They don't necessarily -- if they

1 don't have security at the door, then the
2 bartender is responsible and obligated to check
3 for IDs.

4 So with that, if the security plan is
5 found to not be obligated on him, every moment
6 that he is open, then the charges go away. And
7 so we will have people testify on that.

8 CHAIRPERSON ANDERSON: All right.
9 Thank you. Just for housekeeping purposes, how
10 many witnesses do you have?

11 MR. NEWMAN: Other than Mr.
12 Weldemariam, two.

13 CHAIRPERSON ANDERSON: Two witnesses.
14 All right. All right. Do you wish to call your
15 first witness?

16 MR. NEWMAN: Yes. I call Bill
17 Wiggins.

18 MS. KRUPKE: For the record, the
19 Government does object to the calling of Mr.
20 Wiggins. I know that the Board Chairman had
21 already had a conversation regarding the lack of
22 notice to the District, but the District did

1 provide such notice as required and was not
2 afforded the same courtesy and has no idea who
3 this individual is who is about to testify.

4 So I would like to preserve my rights
5 by objecting, understanding that it's likely to
6 be overruled.

7 CHAIRPERSON ANDERSON: All right. And
8 I do hear you, Ms. Krupke. And this is one of
9 the reasons why I stated since I have been Chair,
10 I have made it perfectly knowledgeable to all the
11 parties at the prehearing status conferences that
12 I expect that -- you can have a seat, Mr.
13 Wiggins.

14 MR. WIGGINS: Okay.

15 CHAIRPERSON ANDERSON: I expect all
16 the witnesses and the documents to be disclosed
17 prior to it, because I don't know how many -- I
18 don't -- it's difficult to know how long these
19 hearings will last if you don't know the
20 documents, you don't know the witnesses.

21 But as I stated before to Mr. Newman,
22 since he was not the attorney of record at the

1 Status Hearing and I am not sure at the moment
2 whether or not it is written in our regulations
3 at least for Show Cause Hearing Status that this
4 needs to occur.

5 It will be subsequently, but it's not
6 currently in the regulation that this has to be
7 done for Show Cause Hearing Status.

8 With that, I will allow the witness to
9 testify. However, as I have informed Mr. Newman
10 before, if we have -- if he is here for another
11 hearing and if the documents and witnesses are
12 not disclosed, although it is not in the
13 regulations, I am not going to allow the person
14 to testify, because the instructions that I
15 provide to all parties at the status is that this
16 is what the Board expects to occur.

17 So in this particular case, I'm going
18 to overrule your objection, but it is noted.

19 Just raise your right hand, Mr.
20 Williams.

21 MR. WIGGINS: Wiggins.

22 CHAIRPERSON ANDERSON: Wiggins. I'm

1 sorry. Wiggins.

2 Whereupon,

3 BILL WIGGINS

4 was called as a witness by Counsel for the
5 Licensee, and having been first duly sworn,
6 assumed the witness stand and was examined and
7 testified as follows:

8 MR. WIGGINS: Yes, I do.

9 CHAIRPERSON ANDERSON: All right.

10 Thank you. You can pull the microphone up to
11 your mouth, so we can hear you.

12 MR. WIGGINS: Yes.

13 CHAIRPERSON ANDERSON: It's your
14 witness, sir.

15 DIRECT EXAMINATION

16 BY MR. NEWMAN:

17 Q Mr. Wiggins, could you spell your --
18 give your name and spell it for the record,
19 please?

20 A Well, my full name is William, W-I-L-
21 L-I-A-M, middle name Donald, D-O-N-A-L-D, last
22 name Wiggins, W-I-G-G-I-N-S.

1 Q Okay. And where do you work?

2 A I'm an independent contractor. I have
3 my own computer consulting company.

4 Q Okay. And how do you know Mr.
5 Weldemariam?

6 A Well, I have known Mr. Weldemariam for
7 approximately 25 years, first, as a patron of his
8 establishment and then someone who has worked as
9 an independent contractor doing social marketing
10 and meeting, sometimes helping out when events
11 are there.

12 Q Okay. I want to bring your attention
13 to August 17, 2018. Were you at the Green
14 Island, at the establishment at that point?

15 A Yes, I was.

16 Q And why do you recall that?

17 A Because all social -- because I'm the
18 person who actually marketed to have this party
19 come here. What happens is he is not very
20 attuned to social marketing media, so I do most
21 of the marketing, social media on the Facebook,
22 on the Twitter, anything that has to do with,

1 basically, advanced computing.

2 I also set up the networking computer
3 system. So when people have -- wanted to have
4 parties there, they have always approached me
5 through Facebook or email saying we want to bring
6 an event to the establishment.

7 Q Okay. And you do that under the
8 direction of the broad direction of Mr.
9 Weldemariam?

10 A Yes.

11 Q Okay. On that particular day, was
12 there an event that you were helping him market?

13 A Sure. It's an event I had. I believe
14 this was either the second or third time they
15 had. It had become an annual event. It was a
16 local showcase to show local bands and talent and
17 it usually would run, I believe, either one, two
18 or three days.

19 Q Okay. And were you present at that
20 time?

21 A Yes.

22 Q Okay. And what role did you have?

1 A Usually, I would make sure that the
2 band had everything they needed to setup and to
3 make sure there was parking available, help them
4 coordinate with the club and I would also stand
5 at the front door to make sure that everything
6 runs smoothly.

7 Q Okay. And again, are you doing that
8 in collaboration with or under the direction of
9 Mr. Weldemariam?

10 A Sure, he knows what I'm doing.

11 Q Okay. On this particular night, are
12 you ever at the front door?

13 A Sure. I'm usually at the front door
14 90 percent of the time, because the bands are one
15 layer of protection and I'm the second layer of
16 protection.

17 Q Okay.

18 A In case they don't follow-up, because
19 there is a tendency with bands to -- it's not
20 really their job or purview to worry about the
21 security of the establishment. So I'm -- I act
22 as a second level to make sure things are taken

1 care of.

2 Q Okay. And again, you do that in
3 collaboration with or under the direction of--

4 A Sure, yes, he knows what I'm doing.

5 Q -- Mr. Weldemariam? Okay. Were you
6 there when ABRA or the Inspectors and MPD came to
7 the establishment?

8 A Yeah, I was there. I'm always there.

9 Q Okay.

10 A Whenever I'm -- I'm there whenever
11 there are these specific parties that I have
12 organized.

13 Q All right. So on this particular day,
14 where were you when they approached the
15 establishment?

16 A I always sit -- if you -- there is a
17 front door, there are steps that lead up to the
18 door and there is an outside place where you can
19 sit and then there is a sort of vestibule inside
20 and that's where I would sit.

21 Q Okay. And you were aware of the table
22 set up outside?

1 A Sure.

2 Q All right. At any point in time did
3 you -- do you check IDs when you are sitting
4 there?

5 A Sure. What happens is those guys
6 would sell tickets. And as I understood it, the
7 tickets they sold were online. So what is
8 perceived as passing money and maybe there was
9 passing money, their tickets were sold online
10 through a site called Eventbrite, which is where
11 you buy tickets online.

12 So in other words, most of the people
13 who were coming up to the door were people who
14 had bought tickets at Eventbrite, so that's what
15 the table outside was set up for.

16 So they are on the Eventbrite list.
17 They check them off. Then they give them a
18 wristband and then they go into the
19 establishment.

20 Q Okay. And when they come into the
21 establishment, were you checking ID?

22 A Sure, I always check IDs.

1 Q Okay. Did, to your knowledge, anyone
2 leave or enter without an ID?

3 A No.

4 Q Okay. About how many people attended?

5 A Let's see, over the course of one day
6 or the whole event?

7 Q That particular day.

8 A 200 to 300.

9 Q Okay. And but how many people were
10 there at any one point in time?

11 A Well, it was an all day festival, so
12 anywhere from a low of 20 up to a high of
13 probably 120.

14 Q Okay. And if you are sitting at the
15 door, did you see anybody -- well, did you see
16 anybody walk out the door with alcohol in their
17 hand?

18 A No.

19 Q Okay.

20 A The most people will do is they will
21 try to cup a drink in their hand or tuck it in
22 their thing and we will look and say hey, man,

1 you need to put that in the -- you need to dump
2 that out.

3 Q Okay.

4 A No, but, no, but no one willingly just
5 walks out, because they can walk out -- to be
6 honest, they can walk down the stairs and then
7 there is an area that is fenced in where they are
8 allowed to go and drink drinks. So you don't
9 really tell anybody who is walking down the steps
10 to throw away their drink, because they are still
11 on the property and there is a gated -- and there
12 is a fenced off area that is specifically for
13 smoking and sitting and drinking outside and that
14 is on the property.

15 So you would never stop anybody from
16 drinking who is walking down the steps. They
17 would have to walk down the steps, go to the
18 front of the building, which is fenced off, and
19 go directly through the small area that you walk
20 through in order to take a drink off of the
21 property.

22 Q Okay. And was your -- or the event

1 that was occurring that night, was that set up as
2 a club activity or as a showcase?

3 A No, it's a showcase. A local guy who
4 has his own band. He has an event. He
5 advertises on Craigslist and Facebook local
6 bands. We have a local band showcase. We want
7 to show all the best bands in D.C.

8 So they all sign up. They go through
9 him and arrange it and we just host the event.
10 We don't have any control over it.

11 Q And was food also being served in the
12 restaurant area?

13 A Sure, yeah, food from the kitchen.

14 Q Okay. About what time did ABRA show
15 up at the establishment?

16 A I don't know. It was probably --
17 because it was -- because that time of day, it
18 gets dark around 9:00 in summer, so it was
19 probably around dusk.

20 Q Okay.

21 A I don't -- like I can't tell you the
22 exact time.

1 Q All right. Do you recall police going
2 into the -- well, do you recall the Investigator
3 coming into the facility?

4 A Yeah, I always notice them, because
5 those guys, they sit across the street and they
6 absorb things -- observe things and then they
7 act.

8 Q Okay.

9 A So yeah, I notice them across the
10 street. I don't pay too much attention, because
11 I don't directly deal with them, because I don't
12 have an ABC License. I'm just a person who sort
13 of works as an outside promoter.

14 Q Okay. And you do that under contract
15 or an engagement with Mr. Weldemariam?

16 A Sure with him. So I -- some event
17 comes, I help facilitate it to be an event. He
18 pays me and that's it.

19 Q Okay. And do you recall the police
20 coming into the facility behind Mr. Puente?

21 A Yep.

22 Q Okay. At that point, you don't know

1 where they went?

2 A No, because I'm just sitting in a
3 chair in the vestibule area.

4 Q Okay. So given the charges that there
5 was no security or that Mr. Weldemariam gave up--
6 sorry, that there were no IDs being checked or
7 that he gave control of his facility on that
8 particular night. What's your reaction or
9 response to that?

10 A No. Here is the deal. They never
11 think of me as security, because I'm not dressed
12 in a black shirt. I don't wear security. I'm
13 not a big guy. I just sit at the door like I'm a
14 host or like I'm just checking IDs, so they never
15 think of me as security. So I'm just a person
16 who is sitting there at the door. They don't
17 think of me as like a security person. They
18 don't think of me at all. They just see me
19 sitting at the door.

20 Q Okay.

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

1 CHAIRPERSON ANDERSON: Ms. Krupke?

2 MS. KRUPKE: Yes.

3 CROSS-EXAMINATION

4 BY MS. KRUPKE:

5 Q Do you have a contract for your
6 services?

7 A Yep.

8 Q And is it a long-term contract or is
9 it by event?

10 A I've been doing events for them for
11 over 15 years.

12 Q That doesn't answer my question. Do
13 you have a contract per event or do you have a
14 long-term contract?

15 A Well, I don't sign a contract. I sign
16 a contract with the people saying Bill is going
17 to be there and this is what he is going to do,
18 but do I sign an individual contract with him
19 every time I do something? No.

20 Q Do you get paid by event?

21 A Yeah, he pays me. When I do
22 something, I get paid for different things

1 because I also do social marketing and media,
2 too.

3 Q Okay. So on August 17, 2018, were you
4 paid for attending that day or were you paid for
5 your social marketing related to that event?

6 A It's the same thing. I'm not -- I'm
7 paid because you can't separate the two, because
8 if an event is hosted and I'm the person who puts
9 it on the website and things like that, I'm paid.
10 It's the same difference.

11 I'm not paid as a doorman or I'm not
12 paid to be security at the party. I'm paid for
13 helping to facilitate and organize this event.

14 Q What time did you arrive on August
15 17th?

16 A Probably 4:00 in the afternoon.

17 Q What time did you leave?

18 A Probably 4:00 in the morning.

19 Q Did you ever leave the premises at any
20 time?

21 A Nope. Maybe to go to the bathroom.

22 Q So earlier you testified a lot to as

1 to what you usually do, but I'm interested in
2 what you actually did on August 17th.

3 Do you remember what you did that day
4 in terms of when you were sitting at the door or
5 when you were walking around? Can you give me a
6 time line as to what you did?

7 A If you have specific questions, I can
8 tell you, but I can't remember everything I did
9 between 4:00 in the afternoon and 4:00 in the
10 morning. But while the event is going on, I am
11 specifically sitting at the door, because that's
12 the height of the event.

13 Q Okay. So at approximately 10:15, were
14 you sitting at the door?

15 A Sure.

16 Q Do you remember that you were sitting
17 at the door?

18 A No, I don't 100 -- I can't give you
19 that specific moment, but I can tell you 99
20 percent I was probably at the door.

21 Q But you don't have any specific memory
22 of what --

1 A No, because I didn't look at my watch
2 and say oh, it's 10:15, I'm at the door.

3 Q Okay. When you are sitting at the
4 door checking IDs, is anyone else with you?

5 A It depends. Sometimes he will walk
6 by, sometimes other staff will walk by, but no
7 one specifically is helping me with that task.

8 Q So at 10:15 you can't say whether or
9 not you were sitting at the door, correct?

10 A No, I can't give you any specific
11 exact minute.

12 Q At --

13 A But more than likely I was there.

14 Q But --

15 A I would say to someone, I have got to
16 go to the bathroom, come and watch the door.

17 Q And who would you say that to?

18 A I would say that to him.

19 Q And?

20 A Mr. Weldemariam.

21 Q Were there any other individuals that
22 you could have said that to that day?

1 A I could have said that to his wife.
2 I could have said that to one of the bartenders,
3 someone who works there.

4 Q Okay. And did you every tell anyone
5 that you were going to be leaving to go to the
6 bathroom and --

7 A I never said I went to the bathroom.
8 I said it's a possibility. I don't remember
9 specifically if I said that at 10:15 on that day.

10 Q 10:20 or 10:30?

11 A Or 10:20 or any time.

12 Q So you can't say with certainty that
13 at any given point that you were sitting at the
14 door at any time that evening?

15 A No, I can't give you a split second,
16 because I don't monitor everything by the minute.

17 Q Did Mr. Weldemariam have any other
18 security staff on -- that evening?

19 A Yes, there was another security person
20 who was roaming around, because I specifically
21 say when you have these parties, you have to have
22 someone else around to monitor and I don't

1 remember what guy it was, because I specifically
2 said you have to hire somebody, one of the guys
3 that works at night to be there to make sure you
4 monitor these guys, because you have two rooms
5 full of people that are drinking.

6 And there was a guy there, which one
7 it was? I don't -- I can't even tell you if he
8 still works there. This was a while back.

9 Q So earlier you said that you walked
10 down the stairs, forgive me, I haven't been to
11 Adams Morgan in a while --

12 A Go ahead.

13 Q -- so you walk down the stairs and to
14 the right is the sidewalk cafe? Is that right?

15 A Yeah, yeah. If you walk down the
16 stairs of Green Island/Heaven & Hell, whatever
17 you want to call it, if you walk down the stairs,
18 there is a basement level that you can go to and
19 off to the side is a fenced in patio area that
20 allows for smoking and having cocktails outside.

21 Q In your experience on August 17, 2018,
22 did Green Island position any individual at the

1 point at which you could leave the sidewalk cafe
2 and enter into the public space?

3 A You mean like an employee?

4 Q Yes.

5 A No, no, because there is not an area
6 because it's a fenced -- I had showed you
7 pictures. It's a fenced in area where there
8 would be no reason you would have a security
9 person there, because they have to use -- they
10 are forced to go out the front entrance, so there
11 is no way they can go to the side or go around or
12 anything. If you enter that fenced in area, you
13 have to go out through the main area, because the
14 rest of it is fenced in.

15 Q Okay. So earlier you stated though if
16 I'm walking down the stairs, you are not going to
17 stop a person with a drink, because they might go
18 to the sidewalk cafe?

19 A Correct.

20 Q Okay.

21 A So they would -- there is nowhere for
22 them to go. They have to either go into that

1 area that is fenced off or they have to go out
2 through a narrow area to leave the club.

3 Q Okay. And at that narrow area where
4 they leave the club, is there any security
5 personnel on August 17th to stop a person from
6 leaving with an alcoholic beverage?

7 A I'm going to say I'm not sure, at that
8 point. I'm not sure.

9 Q So you don't --

10 A Right.

11 Q -- you are not aware of that?

12 A No, I'm not aware of any.

13 Q Going back to if a person is walking
14 down the stairs with an alcoholic beverage, it's
15 your policy not to take their beverage away from
16 them?

17 A Why would you take their beverage?
18 They are still on premise. They would have to
19 literally walk off to the side, then walk outside
20 and anything that will have happened, would have
21 been during the time period when there is not a
22 security person at the front door, because if

1 there is a security person at the front door
2 during the stated hours when you have a security
3 person at the front door, they would have to walk
4 past that person, because there is no way to walk
5 out of the establishment without walking past a
6 security person.

7 Q Unless they were walking down the
8 stairs?

9 A No. If you walk down the stairs of
10 Heaven & Hell, imagine this, imagine here is the
11 steps. You walk down the steps. You have to
12 either go straight ahead or you have to go off to
13 the side into the premise which is fenced off,
14 which is the area where you can drink and smoke.

15 So if I walk down the stairs and I
16 don't turn this way, I have -- it's a narrow area
17 and that is exactly where a security guard is
18 positioned.

19 Q So there is a security guard
20 positioned right there as a person leaves outside
21 the establishment?

22 A Correct.

1 Q Earlier just a minute ago --

2 A I never said there was a security --
3 I told you how the setup is. I didn't tell you
4 there was a security guard at that time, because
5 that's before the hours of security person being
6 there, because as I told you, it was dusk around
7 8:00 or 9:00 or whatever, so there is not a
8 security guard at the front gate, because that's
9 not normal bar time, that's just restaurant time.

10 Q So it's your understanding that this
11 incident happened around 8:00 or 9:00?

12 A Right, that's not bar time, that's
13 restaurant time.

14 MS. KRUPKE: All right. No further
15 questions.

16 CHAIRPERSON ANDERSON: Any questions
17 by any Board Members? Yes, Mr. Short?

18 MEMBER SHORT: Good morning, Mr.
19 Wiggins.

20 THE WITNESS: Yes.

21 MEMBER SHORT: Mr. Wiggins, how long
22 have you been associated with this establishment?

1 THE WITNESS: As a patron or as a
2 consultant?

3 MEMBER SHORT: As a consultant.

4 THE WITNESS: 15 years.

5 MEMBER SHORT: 15 years. So do you
6 consider yourself an employee?

7 THE WITNESS: No. I'm not on their
8 payroll and I only get paid when I do specific
9 assignments.

10 MEMBER SHORT: So when you do your
11 assignments as a -- when you put things on the
12 Internet and --

13 THE WITNESS: Right. Originally --

14 MEMBER SHORT: -- what -- let me
15 finish.

16 THE WITNESS: Okay.

17 MEMBER SHORT: Let me finish the
18 question. So when you are sitting at the door
19 checking IDs as you said sometimes, do you ever
20 take money?

21 THE WITNESS: No.

22 MEMBER SHORT: Never have?

1 THE WITNESS: Nope. Only the --
2 that's something he reserves for family members.

3 MEMBER SHORT: Okay. It sounds
4 business-wise. Now, you get paid, but you are
5 not an employee.

6 THE WITNESS: Correct.

7 MEMBER SHORT: You sit at the
8 entrance, but --

9 THE WITNESS: Right.

10 MEMBER SHORT: -- you are not a
11 security person.

12 THE WITNESS: Right. I don't -- in
13 other words if someone were -- if there was
14 something that needed physical intervention, I
15 would not -- if somebody walked in and they were
16 fighting, I'm not going to jump into the middle
17 of the fight.

18 If somebody -- if I -- if I see some--

19 MEMBER SHORT: Okay. That's good.

20 THE WITNESS: Okay.

21 MEMBER SHORT: What I'm trying to get
22 to is basically you sound like you are quite --

1 15 years, that's a long relationship. And you
2 are there how many days of the week?

3 THE WITNESS: I'm -- I could be there
4 three days in a row and not be there for 30 days,
5 depending on what is going on. But this
6 relationship facilitated from me going there as a
7 patron and he knew I had expertise in certain
8 things and he asked me could you help me set up?
9 We -- they had never done it --

10 MEMBER SHORT: Okay. That's good.
11 That's kind of repetitious. So I want to know in
12 15 years, can you tell me the legal hours that
13 Mr. Weldemariam can sell alcohol? What are the
14 legal hours?

15 THE WITNESS: Yeah, on a weekday until
16 2:00 a.m. and on a weekend --

17 MEMBER SHORT: No. The hours starting
18 to end.

19 THE WITNESS: Um, I can't tell you.
20 I approximate probably --

21 MEMBER SHORT: Wait, wait.

22 THE WITNESS: -- I would say --

1 MEMBER SHORT: For 15 years off and on
2 you are there every week, but you --

3 THE WITNESS: No, no, I'm not there
4 every week.

5 MEMBER SHORT: Okay. But -- okay, but
6 you are there a lot.

7 THE WITNESS: Yes. Sometimes I've
8 been there three or four days in a row and
9 sometimes I'm not there for a month.

10 MEMBER SHORT: Okay. The point I'm
11 trying to get to if you don't know the hours that
12 drinking is allowed, how would you know when
13 somebody can walk out with a drink? Because if
14 I'm there for the restaurant to eat, do people
15 when they are there to eat, do they have alcohol
16 with their meals? Any of them?

17 THE WITNESS: Yes. I know ABC's
18 normal regulations for when you can drink and not
19 drink. They are not --

20 MEMBER SHORT: No, no, they are
21 different. They are -- excuse me.

22 THE WITNESS: Yes.

1 MEMBER SHORT: You are testifying for
2 the establishment, correct?

3 THE WITNESS: Correct.

4 MEMBER SHORT: Okay. So what I want
5 you to do is don't tell us what our job is here.

6 THE WITNESS: Okay.

7 MEMBER SHORT: What I want you to
8 answer is the questions that I'm asking you. The
9 question that I'm asking you is for this
10 establishment at 2327 18th Street, what are the
11 legal drinking hours?

12 THE WITNESS: I believe them to be --
13 I don't know them exactly. I can only tell you
14 that I have only been there during hours of
15 operation, so I believe -- I have never been
16 there earlier than -- because they only open in
17 the evening. They are not open in the afternoon.
18 They don't open up for lunch.

19 MEMBER SHORT: Well, but still, you
20 don't know the drinking hours. So you are
21 sitting there in the lobby and if somebody walks
22 past you with a drink, you don't know if it's

1 legal or not legal, correct?

2 THE WITNESS: Well, I --

3 MEMBER SHORT: You are just sitting
4 there.

5 THE WITNESS: -- well, the
6 establishment is open, so I assume it's within
7 their legal drinking hours.

8 MEMBER SHORT: Well, you did testify
9 earlier that when people are eating, you don't
10 worry about the drinking. Did you not?

11 THE WITNESS: No.

12 MEMBER SHORT: Did you not answer that
13 question that way?

14 THE WITNESS: No, I never said I
15 didn't worry about them. I said -- you had --
16 the question you asked me was specifically were
17 people carded when they come in as -- when they
18 come in there as a restaurant.

19 MEMBER SHORT: Did I mention it's a
20 party?

21 THE WITNESS: Well, you are saying
22 whether I'm worried about whether it's legal

1 drinking age, so that would involve carding.

2 Carding them for their -- for that time.

3 MEMBER SHORT: Well, now you are
4 adding something now that I didn't ask you. I
5 didn't ask you anything about carding.

6 THE WITNESS: I must have
7 misunderstood you.

8 MEMBER SHORT: Because you are not an
9 employee. I understand.

10 THE WITNESS: Right.

11 MEMBER SHORT: But you are not an
12 employee. So, and Mr. Chair, I will -- but I'm
13 just trying to get a point here.

14 CHAIRPERSON ANDERSON: Yes.

15 MEMBER SHORT: He has been there for
16 15 years.

17 CHAIRPERSON ANDERSON: No, go ahead,
18 Mr. Short.

19 MEMBER SHORT: Oh.

20 CHAIRPERSON ANDERSON: Yes, go ahead.

21 MEMBER SHORT: Okay.

22 CHAIRPERSON ANDERSON: I'm just saying

1 don't argue with him, just -- but go ahead.

2 MEMBER SHORT: Okay. Well, I was
3 trying to just get him to answer my questions and
4 not ad lib.

5 CHAIRPERSON ANDERSON: All right.

6 MEMBER SHORT: Okay. So in the 15
7 years you have been associated with this
8 business, are you aware of any incidents where
9 ABRA has come there and violations have been
10 found?

11 THE WITNESS: I'm aware of them coming
12 there, but again, I'm not involved in those
13 things, so I never get involved in those. So any
14 specific violation, I don't know. I have seen
15 them come on the premise sometimes just to talk,
16 sometimes they write him up. I would never know
17 the difference, because I don't -- I am not
18 involved in that.

19 MEMBER SHORT: Okay. Well, if it's
20 possible, Mr. Chair, that I can get someone to
21 show him the history? Is that possible?

22 CHAIRPERSON ANDERSON: Well, he just

1 testified --

2 MEMBER SHORT: He said the last 15
3 years, he knows a lot about the business.

4 CHAIRPERSON ANDERSON: Well, ask him
5 if he is aware. I mean, if he --

6 MEMBER SHORT: Okay.

7 CHAIRPERSON ANDERSON: -- doesn't
8 know, he --

9 MEMBER SHORT: I did ask. Are you
10 aware of the history, ABRA's history,
11 investigative history for this business?

12 THE WITNESS: Sure. I have seen them
13 come in there.

14 MEMBER SHORT: Okay. So can he now
15 get a copy of it, Mr. Chair? Is it possible?

16 MR. NEWMAN: Mr. Chairman, may I?

17 CHAIRPERSON ANDERSON: I'm sorry,
18 what's the question here?

19 MR. NEWMAN: I would just kind of go
20 to the relevance of the history in these matters.
21 May I?

22 CHAIRPERSON ANDERSON: Yes.

1 MR. NEWMAN: I mean, he has already
2 established he is not part of management. He is
3 an independent contractor who goes there to do
4 something in particular. So when you are going
5 to the history of the violations, I'm not sure of
6 the relevance as it goes to him, not being a
7 manager, not being in management being there.

8 CHAIRPERSON ANDERSON: So you are
9 objecting to --

10 MR. NEWMAN: Yes.

11 CHAIRPERSON ANDERSON: I'll sustain
12 the objection. Mr. Short, I believe that --
13 let's see the witness list and you might have a
14 more relevant witness that you can ask that
15 question.

16 MEMBER SHORT: Thank you, Mr. Chair.
17 I understand.

18 Okay. And pretty much I think this
19 question was asked before, but I want to get it
20 straight in my head.

21 Are there any written -- any place
22 what you do there when you come there for the

1 last 15 years, is there anything in writing what
2 you perform, what you do for them, whether it's
3 on the Internet, whether it's social, whatever?
4 Is it -- you talked about people paying on --
5 some people paying on the Internet rather than
6 paying at the door.

7 So it sounds like you do know
8 something about the operation. Okay. So knowing
9 something about it, is there anything in writing
10 that you do or you are supposed to do or what he
11 expects of you or it's just you have a meeting of
12 the minds and you -- there is nothing in writing
13 anywhere?

14 THE WITNESS: Right. Here is -- I can
15 show you invoices that I have given him saying I
16 did this, I did this, I did this, I did this, you
17 owe me this amount of money.

18 MEMBER SHORT: So isn't that what an
19 employee does?

20 THE WITNESS: No, I'm an independent
21 contractor. I'm not an employee. I come in and
22 he says, you know what, we need to update our

1 webpage or we need to upgrade our social
2 marketing. I'll say okay, this is what I think.
3 We need to do this many promotions. We need to
4 do this many things.

5 I then -- and then I'll -- and then he
6 will say okay do it. I'll say okay, I updated
7 the website. I put this many -- I updated the
8 Twitter, the Facebook page. I spent five hours.
9 You owe me \$200.

10 MEMBER SHORT: Okay. So you mentioned
11 the word earlier in your testimony something
12 about a promoter. Can you explain to me, as a
13 Board Member, what a promoter does, that you do,
14 for Mr. Weldemariam?

15 THE WITNESS: I'm not a promoter. I
16 work with the promoters. In other words, if I
17 put an ad up for some -- a promoter, we have a
18 Facebook page and we have a webpage. And so
19 people contact the webpage saying we would like
20 to have an event there.

21 We are doing something. So it
22 facilitates through me, since I run the social

1 media, I'm the initial contact. And so what will
2 happen is they will speak to me and I'll say
3 okay, you need to deal with the owner of the
4 club.

5 So I'll take preliminary information.
6 And let's say I talk to this guy for 20 minutes,
7 then I'll give them to the owner and then after
8 they sit down and they work out some agreement,
9 I'll say okay, here is how we are going to
10 promote it. I'll put it on the webpage. I'll
11 put it on Facebook, social media as an
12 advertising vehicle for the establishment.

13 MEMBER SHORT: Okay.

14 THE WITNESS: That's what I do.

15 MEMBER SHORT: So after 15 years and
16 you working with promoters and working with the
17 business, can you tell me exactly what promoters
18 do?

19 THE WITNESS: Yeah, they bring events
20 to the facility.

21 MEMBER SHORT: Do they have anything
22 to do with how many tickets are sold? Do they

1 have anything to do with -- you said there was a
2 table set up outside and some people had already
3 paid.

4 THE WITNESS: Right.

5 MEMBER SHORT: So --

6 THE WITNESS: If you have an event and
7 you are selling tickets to the event, the way the
8 promoter makes money is through his own specific
9 ticket sales, not through the club. He uses some
10 kind of third-party site, some kind of online
11 site like Facebook Ticketing or Eventbrite or
12 some place and he sells tickets to the event.

13 MEMBER SHORT: That's great
14 information. Now, do you know the occupancy of
15 this establishment?

16 THE WITNESS: No.

17 MEMBER SHORT: 15 years.

18 THE WITNESS: I believe it is in the
19 300 range. I don't know it exactly, but I
20 believe it's in the 300 range.

21 MEMBER SHORT: So if a promoter came
22 to you and said I want to sell 400 tickets, you

1 would say well, I believe it. That's okay?

2 THE WITNESS: No, no.

3 MEMBER SHORT: What do you base the
4 numbers on?

5 THE WITNESS: What do I base the
6 numbers on?

7 MEMBER SHORT: Yes.

8 THE WITNESS: I base the numbers on
9 that sign that says what the occupancy is.

10 MEMBER SHORT: Okay.

11 MR. NEWMAN: Mr. Chairman?

12 CHAIRPERSON ANDERSON: Yes?

13 MR. NEWMAN: I have to object. I'm
14 not sure of the line of questioning are relevant
15 to the two charges that are there. I mean, he
16 has already established that he:

17 (A) Was not an employee. He is an
18 independent contractor who works with other
19 people as an intermediary for Mr. Weldemariam.

20 The level of detail that he is trying
21 to -- for this individual, I'm not sure of the
22 relevance to the charges that are put forward on

1 those two dates.

2 CHAIRPERSON ANDERSON: Okay. Counsel
3 is correct, Mr. Short, so do you have any other
4 questions you want to ask?

5 MEMBER SHORT: Okay. One last
6 question. You say you were there on August the
7 17th?

8 THE WITNESS: Yes.

9 MEMBER SHORT: And you testified to
10 the number of people that were there that day,
11 correct?

12 THE WITNESS: Yes.

13 MEMBER SHORT: How many were there?
14 Again, for the record.

15 THE WITNESS: Probably around 100.

16 MEMBER SHORT: Excuse me?

17 THE WITNESS: Around 100, 120 people.

18 MEMBER SHORT: Okay. That's all I
19 have, Mr. Chair. Thank you very much.

20 CHAIRPERSON ANDERSON: Okay. Any
21 other questions? Yes, Ms. Crockett?

22 MEMBER CROCKETT: Mr. Wiggins, you

1 have previously testified that you are not paid
2 as security, correct?

3 THE WITNESS: Correct.

4 MEMBER CROCKETT: You have previously
5 testified that you cannot confirm if or who was
6 working as security on the night of August 17th.
7 Is that correct?

8 THE WITNESS: I can't tell you what
9 specific individual, because I don't know all
10 those guys. I know them by face, but I don't
11 know them by names and I can't recall someone
12 over a year ago. I could give you a general
13 thing, but it probably would not be the most
14 politically correct. I can give you --

15 MEMBER CROCKETT: Can you tell me --

16 THE WITNESS: -- an idea what they
17 look like.

18 MEMBER CROCKETT: -- if there was
19 security present?

20 THE WITNESS: Sure, because I
21 specifically said to him, you know what, you've
22 got all these people coming in the middle of the

1 afternoon, you better make sure someone is there.
2 And I don't -- I mean, I can -- I want to tell
3 you the phrase I used, if it's okay? I said
4 because you know all those suburban white kids,
5 they love to get drunk and drink in the
6 afternoon. So you need -- so there was a
7 security person there.

8 MEMBER CROCKETT: You have testified
9 that you have instructed him to hire security.
10 What my question is was there actually security
11 present?

12 THE WITNESS: Yes, yes.

13 MEMBER CROCKETT: Okay. You
14 previously testified something about the stated
15 hours that security is necessary.

16 THE WITNESS: Right.

17 MEMBER CROCKETT: What are those
18 hours?

19 THE WITNESS: Again, you are going out
20 side of my area of expert --

21 MEMBER CROCKETT: No, sir. You raised
22 this question when --

1 THE WITNESS: -- because --

2 MEMBER CROCKETT: -- someone asked you
3 if security was present --

4 CHAIRPERSON ANDERSON: Okay. Hold on,
5 hold on. Ms. Crockett will ask the question and
6 she answers.

7 THE WITNESS: Okay.

8 CHAIRPERSON ANDERSON: So we can't
9 have both people speaking at the same time.

10 THE WITNESS: Okay.

11 MEMBER CROCKETT: You were asked if
12 security was present. You stated it was
13 restaurant hours and we don't generally have
14 security for that.

15 THE WITNESS: Correct.

16 MEMBER CROCKETT: That we have stated
17 hours where there is security. And so I'm now
18 asking what are those stated hours? Because you
19 have already identified that there must be hours
20 where there isn't, because there is restaurant
21 time.

22 THE WITNESS: I was alluding to the

1 hours that the ABRA Inspector talked about and
2 that is in the agreement that I heard while I was
3 here. I wasn't being an expert on those hours,
4 because I'm not aware. I just listen to what he
5 said and I use that as a relative point, because
6 when I was there and when there is security, I'm
7 -- I don't know, I'm not aware of everything in
8 the ABRA agreement of when security is supposed
9 to be there and when they are not supposed to be
10 there.

11 MEMBER CROCKETT: You also made a
12 statement that the establishment is open, so you
13 assume its legal drinking hours.

14 THE WITNESS: Correct.

15 MEMBER CROCKETT: You also stated that
16 you have been present at the establishment
17 through 4:00 a.m. Do legal drinking hours run
18 through 4:00 a.m.?

19 THE WITNESS: 4:00 a.m. has to do with
20 after the place is closed and the place is being
21 cleaned up and they are reconciling their books,
22 because typically when I'm there until 4:00 a.m.

1 it is because they close the place, reconcile
2 their books and then that's when I get paid by
3 either cash or a check.

4 MEMBER CROCKETT: Okay.

5 THE WITNESS: At the end of that
6 evening. So and it is done when they finish
7 reconciling the books. It's not done because
8 they are still serving alcohol or are open.

9 MEMBER CROCKETT: Thank you. I have
10 no further questions.

11 CHAIRPERSON ANDERSON: Any other
12 questions by any other Board Members?

13 Mr. Wiggins, what was your legal
14 relationship with Mr. Weldemariam on August 17th?

15 THE WITNESS: I'm an independent
16 contractor.

17 CHAIRPERSON ANDERSON: So on August
18 17th, you signed up -- you were working as an
19 independent contractor?

20 THE WITNESS: Sure, yes.

21 CHAIRPERSON ANDERSON: On August 17.
22 I want you to look at -- can someone provide him

1 a copy of the documents, please? I want you to
2 look at Exhibit 1, 2, 3. Could someone provide
3 him with the exhibits, please?

4 MR. NEWMAN: We have different
5 numbered exhibits.

6 CHAIRPERSON ANDERSON: I'm sorry?

7 MR. NEWMAN: I think we have different
8 numbered exhibits.

9 CHAIRPERSON ANDERSON: I'm looking at
10 the case report.

11 MR. NEWMAN: Report. Okay.

12 CHAIRPERSON ANDERSON: I'm looking at
13 the case report and within the case report --

14 MS. KRUPKE: August 17th case report.

15 CHAIRPERSON ANDERSON: Yeah, the
16 August 17th case report, which is the one that --
17 those are the 10 documents Ms. Krupke? Oh, you
18 didn't --

19 MS. KRUPKE: We had the settlement
20 agreement and the security --

21 CHAIRPERSON ANDERSON: All right. All
22 right. Well, just -- do you have the case report

1 from August 17th?

2 MS. KRUPKE: I have my copy of the
3 case report.

4 CHAIRPERSON ANDERSON: And the reason
5 I'll -- could someone --

6 MS. KRUPKE: It does have my writing
7 on it.

8 CHAIRPERSON ANDERSON: Can you hand
9 him exhibit -- show him Exhibit 1, 2, 3, please?
10 And this is from the case report. So can you
11 hand the witness the Exhibit 1, 2 and 3?

12 Mr. Wiggins, do you know who -- can
13 you identify the individual in Exhibit 1?

14 THE WITNESS: I mean, I don't know him
15 by name or face. I can't tell you any more than
16 he was there that --

17 CHAIRPERSON ANDERSON: All right.

18 THE WITNESS: -- specific day. So I
19 don't know.

20 CHAIRPERSON ANDERSON: All right. Is
21 that you?

22 THE WITNESS: No, that's not me.

1 CHAIRPERSON ANDERSON: What about
2 Exhibit 2 and 3? Are you able to identify the
3 person in the exhibit?

4 THE WITNESS: I can -- the picture is
5 kind of grainy. I have an idea who I think it
6 is, but I couldn't swear to it.

7 CHAIRPERSON ANDERSON: The reason I'm
8 asking is because you are saying -- do you know
9 what it is that those folks were doing that day?

10 THE WITNESS: Yes.

11 CHAIRPERSON ANDERSON: What were they
12 doing?

13 THE WITNESS: They were facilitating
14 giving tickets to people who had bought them.

15 CHAIRPERSON ANDERSON: So how do you
16 know that?

17 THE WITNESS: How do I know that?

18 CHAIRPERSON ANDERSON: Yeah.

19 THE WITNESS: Because I was there and
20 I spoke to them and they were the people who ran
21 the party.

22 CHAIRPERSON ANDERSON: The people who

1 did what?

2 THE WITNESS: The people who ran the
3 promotion.

4 CHAIRPERSON ANDERSON: Meaning that?

5 THE WITNESS: In other words, they
6 worked for -- they were the people who organized
7 the party.

8 CHAIRPERSON ANDERSON: So these people
9 were working for a promoter?

10 THE WITNESS: No, they were the actual
11 party. They were the actual -- the person I
12 believe because his hair is long, I can't say --

13 CHAIRPERSON ANDERSON: Now, the reason
14 I'm asking I'm not -- the reason why I'm asking
15 is because I listened to your testimony and you
16 were talking about the table that was set up.
17 And so that's why I asked. That was part of your
18 testimony, so that's why I was asking you to --
19 and I think you testified that they probably were
20 checking Eventbrite because folks had bought
21 tickets in line and they were supposed to -- so
22 that was your testimony.

1 THE WITNESS: Sure.

2 CHAIRPERSON ANDERSON: That's why I'm
3 asking you.

4 THE WITNESS: Right. Because I
5 believe if you see box on there, it's what they
6 would use, because they would check against a
7 list and then I believe that box that you see on
8 the table contained wristbands.

9 CHAIRPERSON ANDERSON: But you didn't
10 have any relationship, legal or any legal
11 relationship with these folks?

12 THE WITNESS: No, none at all.

13 CHAIRPERSON ANDERSON: All right.
14 Now, I think you testified earlier that you were
15 at the -- you were sitting I guess in the
16 vestibule.

17 THE WITNESS: Yes.

18 CHAIRPERSON ANDERSON: And that you
19 were checking IDs?

20 THE WITNESS: Sure, yes.

21 CHAIRPERSON ANDERSON: So why were you
22 checking IDs?

1 THE WITNESS: Why? No reason.
2 Because when I come there, I said I'll check IDs.
3 It's no reason. When I come to the -- it could
4 have been someone else. It could have been
5 another employee. It could have been any staff,
6 but one of the things I do to make sure these
7 parties facilitate is that I help however I can
8 help. And at this point, I was helping by
9 checking IDs.

10 CHAIRPERSON ANDERSON: I'm asking the
11 question. This is the crux of the question.

12 THE WITNESS: Okay.

13 CHAIRPERSON ANDERSON: And that's why
14 I asked you what was your relationship.

15 I don't understand you are unable to
16 tell me what your legal relationship was with Mr.
17 Weldemariam on August 17th.

18 THE WITNESS: As a -- I'm an
19 independent contractor who works specific events.

20 CHAIRPERSON ANDERSON: But you are an
21 independent contractor who works specific events,
22 why were you -- you are not an employee. You are

1 not the -- why -- and you also stated that -- I
2 mean, why were you checking IDs if you are not --
3 why am I going to have someone who is not an
4 employee of my business check ID?

5 THE WITNESS: Well, that's not for me
6 to decide or not. You just asked me what I was
7 doing. If legally I can check IDs or not, I
8 don't know. You just asked me what I was doing
9 and that's what I was doing.

10 CHAIRPERSON ANDERSON: So you were
11 checking IDs?

12 THE WITNESS: Sure.

13 CHAIRPERSON ANDERSON: And you had
14 also testified that you were also working as
15 security, but they didn't --

16 THE WITNESS: I never said I was
17 working as security.

18 CHAIRPERSON ANDERSON: I apologize.
19 Okay. I apologize. I thought that. I thought
20 that because I remember you testified to say
21 that, I mean, they know --

22 THE WITNESS: I specifically said I

1 don't do security. If there is something that
2 involves security where they have to confront
3 them or anything like that, I don't. I'm not
4 involved in any of that.

5 If somebody was doing anything that
6 involved some kind of intervention, I am not
7 involved in that.

8 CHAIRPERSON ANDERSON: I apologize.
9 I thought -- I was taking notes and I thought
10 that's what I heard. All right. Okay. All
11 right. Any other questions by any other Board
12 Members?

13 MEMBER SHORT: Just one last question.

14 CHAIRPERSON ANDERSON: Yes, Mr. Short?

15 MEMBER SHORT: Mr. Wiggins, you check
16 IDs?

17 THE WITNESS: Yes.

18 MEMBER SHORT: Have you ever been
19 trained to check IDs? How would you know a false
20 one from a real one?

21 THE WITNESS: I would not.

22 MEMBER SHORT: Excuse me?

1 THE WITNESS: I just said I -- do I
2 specifically have any training to tell a false ID
3 from a -- I know what a driver's license looks
4 like. Do I have any specific training where I
5 would -- there is a book at the front door that I
6 can flip through and see what an ID looks like,
7 but I don't have any specific legal training or
8 certification that says I am certified to check
9 IDs.

10 MEMBER SHORT: So if someone came and
11 you flipped through your book --

12 THE WITNESS: Right.

13 MEMBER SHORT: -- and you found out
14 there was an illegal ID or they were underage or
15 whatever else, there was a problem, you are not
16 security, so how would you handle that?

17 THE WITNESS: I would just say bye,
18 you have to leave. And you take it from them and
19 you hand it to one of the security guards or you
20 hand it to the owner.

21 MEMBER SHORT: You would take
22 someone's ID although you are not associated with

1 the business at all?

2 THE WITNESS: No, I'm not a security
3 guard. You -- I'm giving it to the security
4 guard so they can facilitate.

5 MEMBER SHORT: Would it be easier if
6 you just let one of the security guards do that
7 and let them check it?

8 THE WITNESS: Because there is layers
9 of security guards. There is the main security
10 guard at the front door or there is a security
11 guard in the establishment. So if someone comes
12 to the door and they got a fake ID and I didn't
13 come across any fake IDs, so this never happened.

14 MEMBER SHORT: Okay.

15 THE WITNESS: So I'm not at the door.
16 I'm not at the door in any regular basis, week
17 after week after week taking IDs. I have
18 probably done this three times over 15 years.

19 MEMBER SHORT: Okay. My very last
20 question, it seems like you are pretty much
21 associated with public assembly locations or
22 businesses? Are you or aren't you?

1 THE WITNESS: Yeah.

2 MEMBER SHORT: You would say yes you
3 are?

4 THE WITNESS: Um, when you mean -- you
5 need to clarify the question for me. I'm not
6 sure.

7 MEMBER SHORT: Public assembly which
8 would be restaurants, hotels, ballrooms, anything
9 with over 50 people in it is considered public
10 assembly legally in Washington, D.C.

11 THE WITNESS: Okay.

12 MEMBER SHORT: So are you pretty
13 much --

14 THE WITNESS: Have I done social
15 marketing?

16 MEMBER SHORT: I'm asking you are you
17 familiar with the standard that should be for a
18 public assembly establishment?

19 THE WITNESS: No, because I don't work
20 as a public assembly establishment as a regular
21 person. All -- the only thing I did is I
22 facilitated this one event where I checked IDs at

1 the door, because the whole contention was that
2 nobody was checking IDs at the door.

3 I'm not a doorman. I'm not -- I don't
4 -- I'm not a bartender. I am not an ABC Manager.

5 MEMBER SHORT: Okay.

6 THE WITNESS: So I don't go to
7 businesses and work their front doors.

8 MEMBER SHORT: Okay. My last
9 question.

10 THE WITNESS: And things like that.

11 MEMBER SHORT: My last question. Who
12 gave permission for these two promoters to put a
13 table at the front door on public land, on city
14 property? Who facilitated that?

15 THE WITNESS: I did not do that, so I
16 can't answer who did that. I would have -- I can
17 speculate, but I can't, because I don't know who
18 specifically told them to do that.

19 MEMBER SHORT: So if you knew the
20 rules of public assembly, would you have done
21 that? Is that legal to do that?

22 MR. NEWMAN: Objection. He has

1 already said he doesn't know the rules and now he
2 is being asked to speculate.

3 CHAIRPERSON ANDERSON: All right.
4 Sustained.

5 MR. NEWMAN: Thank you.

6 CHAIRPERSON ANDERSON: Do you have any
7 other questions, Mr. Short?

8 MEMBER SHORT: No, no further
9 questions.

10 CHAIRPERSON ANDERSON: Okay.

11 MEMBER SHORT: That's it. Thank you.
12 Thank you very much.

13 CHAIRPERSON ANDERSON: All right. Ms.
14 Krupke?

15 MS. KRUPKE: I'm turning to what has
16 been marked as Exhibit 8. Permission to
17 approach?

18 CHAIRPERSON ANDERSON: Sure, yes.

19 RE-CROSS-EXAMINATION

20 BY MS. KRUPKE:

21 Q Do you recognize that document?

22 A No, because I'm not security.

1 Q So you have never seen that document
2 before?

3 A Nope.

4 Q Never read through it?

5 A No, I would have no reason to.

6 Q On August 17th, is it your
7 understanding that Mr. Weldemariam knew that the
8 table was set outside on the sidewalk where it
9 was?

10 A Well, I believe he would have to know
11 because he would see the table, but do I know he
12 gave tacit approval of it? I don't know.

13 Q Okay. So to answer my question, you
14 know that he saw the table sitting there?

15 A Yeah, he would see a table, because
16 it's sitting on the outside of his property, so I
17 would believe he would see it.

18 Q Okay. I'm referring to what has been
19 marked as Exhibit 3. And I give a copy to the
20 witness. Can you take a look at that photograph?

21 A Sure.

22 Q Okay. Do you recognize what is in

1 this photograph?

2 A Yep.

3 Q And what do you recognize it as?

4 A I recognize it as the front of 2327
5 18th Street.

6 Q Were these the individuals that you
7 earlier said ran the party? Is that right?

8 A As I said, I believe -- this picture
9 is grainy, so I'm not sure. I believe I may know
10 one of them. The other person I do not know.

11 Q And so I'm clear, these are
12 individuals that you contracted with to have an
13 event at --

14 MR. NEWMAN: Objection.

15 THE WITNESS: Again, I never --

16 CHAIRPERSON ANDERSON: Hold on, hold
17 on, hold on. Mr. Wiggins, hold on. When there
18 is an objection, that says for you to not say
19 anything and then I will let you know whether you
20 can answer the question.

21 THE WITNESS: Okay, okay.

22 CHAIRPERSON ANDERSON: What's the

1 nature of your objection?

2 MR. NEWMAN: Counsel is asking
3 questions that has already been asked by the
4 Board and answered by the witness. That question
5 was asked and answered. He said he did not --
6 they did not work for him. He didn't engage
7 them. He had nothing to do with them. He
8 testified to that already to a previous question,
9 numerous questions.

10 MS. KRUPKE: I'm merely exploring the
11 scope of this relationship, which is not clear to
12 me.

13 CHAIRPERSON ANDERSON: And I'm going
14 to overrule the objection. You can answer the
15 question now, Mr. Wiggins.

16 THE WITNESS: Okay.

17 CHAIRPERSON ANDERSON: If you need her
18 to restate the question, she can.

19 THE WITNESS: As I stated before, I'm
20 not contracting with anyone. I'm not contracting
21 with anyone in this picture. They do a contract
22 with him. All I do is work as an intermediary

1 and introduce him. Whatever they work out is
2 between them, it's not between me.

3 BY MS. KRUPKE:

4 Q But the people in the photograph are
5 people that it's your understanding were not
6 employed by Green Island, but were promoters for
7 Green Island that day?

8 A They are third-party. They are not
9 promoters for Green Island itself. They have
10 their own event and they, in essence, rent the
11 club for a few hours through a contract with him.
12 They are not promoters for the club. They don't
13 specifically work for Green Island.

14 MS. KRUPKE: I'm going to retrieve
15 Exhibit 3 for the witness.

16 CHAIRPERSON ANDERSON: Sure.

17 BY MS. KRUPKE:

18 Q On August 17th, forgive me because I
19 know this question has been asked, but I don't
20 believe it has been answered, you were the person
21 who was going to be checking IDs. Is that right?

22 A I'm one of the people. At that

1 specific time I was checking IDs, because I'm at
2 the front door.

3 Q Okay.

4 A Yes, I'm checking IDs.

5 Q Why did that arrangement come to be?

6 A Why did that arrangement come to be?

7 Because whenever I involve myself in an event, I
8 try to make sure it runs smoothly. One of the
9 things I do is I coordinate parking for the band.
10 I coordinate the sound system to make sure it's
11 set up right.

12 And one of the things I do is I make
13 sure entry to the club is done easy and part of
14 that is me being at the door.

15 MS. KRUPKE: No further questions.

16 CHAIRPERSON ANDERSON: Mr. Newman?

17 MR. NEWMAN: Yes.

18 REDIRECT EXAMINATION

19 BY MR. NEWMAN:

20 Q Mr. Wiggins, do you know -- were you
21 a party to any contract between the individuals
22 that were allegedly in front of the club on

1 August 17th and Mr. Weldemariam?

2 A No.

3 Q Okay. Do you know if Mr. Weldemariam
4 actually rented out his club to anyone on that
5 night?

6 A No. I'm just surmising.

7 Q Do you -- I need to --

8 A Okay. But --

9 Q It's a yes or no question.

10 A No, no, I don't know.

11 Q Do you know if he rented out the club
12 that evening?

13 A No, I don't know that and I probably
14 used the wrong word.

15 Q Okay. Do you know -- are you a party
16 to his negotiations with anybody that he runs
17 events with at the club?

18 A No.

19 Q In the club?

20 A He does that himself.

21 Q Okay. What is your -- do you have a
22 personal relationship with Mr. Weldemariam?

1 A Personal as in when I was 21 years-
2 old, I used to come there as a patron, if you
3 want to call that personal, yeah.

4 Q And how -- so have you gotten to know
5 him?

6 A Sure.

7 Q Okay. And do you trust him?

8 A Yeah, I trust him. I wouldn't bother
9 with him if I didn't.

10 Q Okay. Do you like the establishment?

11 A Yeah, I like it. You mean do I like
12 the building itself and what goes on in the
13 building?

14 Q Yes.

15 A Yeah, sure.

16 Q Yes. Okay. And are you, in fact --
17 well, let me ask this question.

18 Do you ever do anything for Mr.
19 Weldemariam where you don't get compensated?

20 A You mean do I just sit there sometimes
21 and eat dinner with him and just have dinner?
22 Sure.

1 Q Well, do you --

2 A And he doesn't pay me.

3 Q -- two ever do any -- you said
4 sometimes you do sound, you will do technology,
5 the website stuff, do you ever do any of that out
6 of courtesy or out of -- pro bono for Mr.
7 Weldemariam?

8 A Not really. I may do something and I
9 don't say -- I may not say I did this and this
10 and this, so you owe me \$100, but it's all in the
11 same package of things. I never -- no, I don't
12 just do things out of friendship. I don't come
13 there and try to make his business work, because
14 he is my friend.

15 Q Okay. Do you sometimes go beyond the
16 scope of your contract with him as if you see
17 something is needed?

18 A That's what -- I don't know how to
19 answer that question. Do I do anything without
20 him knowing about it? No.

21 Q No, no, no. So the contract, you may
22 have a written contract with him. Well, let's go

1 back to -- let's be specific.

2 On August 17th --

3 A Yeah.

4 Q -- did the scope of your contract
5 specifically say to check IDs at the door?

6 A Yes. When I -- I say all the things
7 I'm going to do and one of the things that I said
8 I'll do is that I'll sit there and I'll check IDs
9 at the door.

10 Whenever I say I'll do this, I'll do
11 this, I'll do this, I'll do this, I'll do this,
12 it's always written down.

13 Q Okay. On that day -- no, that's
14 speculative.

15 MR. NEWMAN: No further questions.

16 CHAIRPERSON ANDERSON: Mr. Wiggins,
17 thank you for your testimony. You can step down.

18 THE WITNESS: Yes.

19 CHAIRPERSON ANDERSON: Thank you very
20 much for your testimony, sir.

21 MR. WIGGINS: Are you going to -- I'm
22 going to go to the bathroom. Is that okay?

1 CHAIRPERSON ANDERSON: You are free to
2 go, sir. You are free to go.

3 MR. WIGGINS: Okay. I have to go to
4 the bathroom.

5 CHAIRPERSON ANDERSON: You are free.
6 You have no other -- yeah, you are free to go.
7 Thank you.

8 Do you have another witness?

9 MR. NEWMAN: Yes. At this time, I
10 would like to call James Perry.

11 CHAIRPERSON ANDERSON: Raise your
12 right hand, Mr. Perry.

13 Whereupon,

14 JAMES DOMINIQUE PERRY
15 was called as a witness by Counsel for the
16 Licensee, and having been first duly sworn,
17 assumed the witness stand and was examined and
18 testified as follows:

19 MR. PERRY: I do.

20 CHAIRPERSON ANDERSON: I didn't hear
21 you.

22 MR. PERRY: Yes, sir.

1 CHAIRPERSON ANDERSON: No, the reason
2 I'm saying is because you are being recorded, so
3 that's why.

4 MR. PERRY: Okay.

5 CHAIRPERSON ANDERSON: Have a seat,
6 please, pull the microphone in front of your
7 face. Thank you, sir. Your questions, sir.

8 MR. NEWMAN: All right.

9 DIRECT EXAMINATION

10 BY MR. NEWMAN:

11 Q Mr. Perry, could you just state and
12 spell your name for the record?

13 A James, J-A-M-E-S, Dominique, D-O-M-I-
14 N-I-Q-U-E, Perry, P-E-R-R-Y.

15 Q Okay. And where do you work?

16 A I work for the Joint Chiefs of Staff,
17 Protected Joint Chiefs of Staff and for the
18 United States Military.

19 Q Okay. Do you also have a part-time
20 job?

21 A Yes, I do.

22 Q And where is that?

1 A Heaven & Hell.

2 Q Okay. How long have you worked for
3 Heaven & Hell?

4 A Going on six years.

5 Q Okay. And what days typically do you
6 work?

7 A I work every other weekend on a Friday
8 and Saturday.

9 Q All right. What is your role there
10 when you work there?

11 A I'm the lead security.

12 Q All right. And what -- as a lead
13 security, are you involved in scheduling?

14 A Yes.

15 Q Okay. What are the schedules of
16 security?

17 A I usually man up to four to six
18 security guards for Friday and Saturday,
19 depending on what levels are open. I do schedule
20 for the weekends when I'm not there and I'll
21 leave another individual in charge.

22 Q Okay. And what hours though does the

1 shift start?

2 A I'll arrive at 10:00.

3 Q Okay.

4 A End of shift is 3:00, with the club
5 around 2:45.

6 Q All right. When you are there or your
7 officers, your security officers, what are their
8 roles?

9 A Their role is to check ID, make sure
10 nobody has any type of weapons, underage, fake
11 IDs, make sure everything is going as planned
12 inside the club. If any type of -- anybody is
13 intoxicated, make them exit the building. Any
14 type of marijuana or any type of smoking inside
15 the vehicle -- inside the club, we will make them
16 leave the establishment.

17 Q Okay. And where are the officers
18 stationed? Where are their duty stations?

19 A I have at least two, I have two
20 officers at the front entrance. I have two
21 officers at least upstairs and if I have six, it
22 will be two on each level.

1 Q Okay. And do they have a uniform or
2 some standard appropriate?

3 A We do. We usually wear mostly black
4 shirts. Some just say security or TDU, pants and
5 boots, so you will see us and you will know what
6 we are security.

7 Q Okay. When security is at their duty
8 station, do they stay there all night or is it a
9 rotation?

10 A It's a rotation.

11 Q Are you trained in checking IDs?

12 A Yes.

13 Q Why do you start, to your knowledge,
14 securing your shifts at 10:00?

15 A Well, that's when the actual club
16 starts. Like the individual said before, before
17 that it's mostly restaurant or if he has a comedy
18 show, but we are there strictly for the club. So
19 I arrive there at 10:00. I'm the one who put up
20 the chains and the ropes from the gate past the
21 ATM to the steps through that narrow area where
22 you can exit the building. When I get there, I'm

1 the one who put those up. Those are never up
2 unless I'm there.

3 Q Okay. Are there cameras in the
4 facility?

5 A There are.

6 Q All right. Are they observed during--
7 while it is open?

8 A Yes.

9 Q Who makes that observation?

10 A The owner.

11 Q Okay. Well, which owner?

12 A Between Mehari and his wife.

13 Q Okay. From your -- you said you have
14 been there for six years?

15 A Going on six years, yes, sir.

16 Q Six years, okay. What is your
17 experience or knowledge of Mr. Weldemariam's
18 concern about checking IDs?

19 A He is very concerned about that,
20 because, you know, you have an underage
21 individual, you could lose your liquor license
22 and then your whole operation is shut down.

1 So my duty there is to make sure I
2 don't have any underage individuals getting in
3 the club, fake IDs, weapons, paraphernalia.

4 Q Okay. Do you know if the bartenders
5 also check ID?

6 A They do.

7 Q Okay.

8 A I have had bartenders come up to me
9 asking for like IDs. Say like if I -- all right.
10 So like if I get there at 10:00, this is my main
11 job, if there was an event going on, I'll come
12 inside and check IDs when that event is finished,
13 so if there is a comedy show or if there is like
14 a little private band, when they exit when I get
15 there, I go inside the establishment and for the
16 remainder of the people in there, maybe 10
17 individuals, I'll check everybody's IDs.

18 I have had -- I did have bartenders
19 come to me and say hey, have you checked that ID
20 at the door? They look underage. So if they do
21 buy a drink, they will check an ID.

22 Q Okay. What is -- has Mr. Weldemariam

1 ever said it was okay to allow anybody to walk
2 out the door with alcohol?

3 A No.

4 Q Okay.

5 A No.

6 Q All right. Are you familiar -- in the
7 time that you have been there, have you ever
8 filled out any incident reports?

9 A Yes.

10 Q Okay. And how -- what's that
11 procedure like?

12 A I'll usually get name, date, time,
13 where incident happened, what incident happened
14 and then I'll go along with MPD. I have a good
15 relationship with the foot beat patrols outside
16 and I'll get with them.

17 If the situation is -- you know, that
18 needs to go to Court, I'll give them times. I
19 give them my observation of what the individual
20 was wearing and what happened.

21 Q Do you -- any time security gets
22 involved where there is a requirement for an

1 incident report, do you contact the police?

2 A Yes.

3 Q Okay. And do they also provide you
4 with their report?

5 A Yes. Well, no. I'm sorry, no. With
6 their report, no.

7 Q All right. Okay.

8 A I'll take a report with MPD and then
9 if it do goes to Court, I have to show up at
10 Court.

11 Q Okay. Are you familiar with the
12 history of violations that this establishment has
13 had in the last couple of years?

14 A Most, yes.

15 Q Okay. What is your thoughts about
16 those violations, about the history?

17 A Most of the violations that happened
18 up there, one I know extremely was an accident.
19 Too much -- we don't have too many incidents at
20 Heaven & Hell, since I have been there.

21 You have, you know, your normal stuff
22 that happens in any club, but we are there to

1 protect everybody who is in that establishment,
2 to protect Mehari in any way, other than that--

3 Q What are your -- what -- has Mr.
4 Mehari ever raised concerns about the community?

5 A No.

6 Q In terms of, I mean -- let me ask it
7 a different way.

8 Has he ever said part of your role is
9 also to assure that nothing bad happens in the
10 community?

11 A I'm sorry? Speak up?

12 Q That part of your role is to ensure
13 that nothing bad happens in the community as a
14 result of the club?

15 A Right.

16 Q Has he ever expressed that to you?

17 A Well, yeah. I mean, he is there for
18 the community.

19 Q All right.

20 A You know, he has been there for a very
21 long time. A lot of people has entered both his
22 establishments and they feel like that club is a

1 safe place to go. And I think that comes from
2 the security.

3 Q On August 17th --

4 A Yes.

5 Q -- were you there on that day or
6 night?

7 A No, I wasn't there that night.

8 Q Okay. Are you familiar with the
9 accusation and the charge from that night?

10 A Yes.

11 Q Okay. Were you aware that an event
12 was happening that night?

13 A Yes.

14 Q Okay. Was security scheduled for the
15 time of that event?

16 A Yes.

17 Q Okay. Was security present at the
18 time of that event?

19 A Yes.

20 MS. KRUPKE: Objection.

21 CHAIRPERSON ANDERSON: What's the
22 nature of the objection?

1 MS. KRUPKE: He lacks personal
2 knowledge.

3 CHAIRPERSON ANDERSON: Mr. Newman?

4 MR. NEWMAN: He just testified that he
5 is the person that is responsible for scheduling
6 the security. And so my question was going to
7 the scheduling and whether or not they attended
8 or not.

9 CHAIRPERSON ANDERSON: Well, I think
10 that you need to provide that information because
11 my first comment was that how was he aware since
12 he was never there? So you need to do a little
13 bit more groundwork, sir. So I am sustaining the
14 objection, but you need to provide some basis.
15 You need to tell us did he put a schedule?

16 MR. NEWMAN: That -- okay.

17 CHAIRPERSON ANDERSON: But I mean, but
18 you jumped to the end. We didn't -- so I'm
19 sitting here, I'm writing questions down, because
20 you haven't answered the questions. So you need
21 to do the --

22 MR. NEWMAN: No problem.

1 CHAIRPERSON ANDERSON: -- groundwork
2 first, sir. Go ahead.

3 BY MR. NEWMAN:

4 Q Did you put together a schedule for
5 that night?

6 A For that night I do. I usually just
7 call people or send out a text message who wants
8 to work that night or say that we are working on
9 that Saturday and Mehari will say all right, I
10 need a guy for this night and he will talk to
11 them personally.

12 Q Okay. Do you know if anybody
13 responded or was scheduled for that night?

14 A For that night, I do not know.

15 Q Okay.

16 A That like -- that certain date, like
17 I say, it was a year ago. I do not know, but I
18 know if there is any event going on, there is a
19 security guard there for an event. If there is
20 just like dinner or something, no.

21 Q Okay. Let me just clarify something.
22 So you said that from your knowledge in the six

1 years you have been there, if an event is
2 scheduled prior to the club hours, which I think
3 you said -- what time do the club hours start?

4 A The club hours start at least from
5 10:00. If there is an event, the event might run
6 over to 10:30, but mostly the club -- I'll get
7 there at 10:00, so that's when I'm -- that's when
8 the club starts the music at 10:00.

9 Q Okay.

10 A That's when DJs start showing up,
11 that's when I show up for security and I'll start
12 putting, you know, the ropes together for the
13 security.

14 Q Okay. So prior to 10:00 if there is
15 an event there, in your past six years of
16 history, have -- to your knowledge, has there
17 been a schedule of security for those events?

18 A Yes. Yeah, for me, yes. If I'm
19 making the schedule for that special event, yes.
20 Mehari, I don't know if he goes -- say like if
21 I'm not -- one of the weekends I'm not there and
22 he said I need a guy there for a Thursday or a

1 Friday, I mean, yeah, Wednesday or Thursday
2 event, he will do it, because I'm not there.

3 Q Okay. And so he will ask you or he
4 will take care of it himself?

5 A He will take care of it himself, yes.

6 Q Okay. What training is provided with
7 regard to checking IDs?

8 A Like I said, there is a book up there
9 that tells you about IDs. I go over everybody's
10 since I'm a police officer. Most of my guys I do
11 have working over there are also police officers,
12 so they have their own training.

13 If somebody who is just doing
14 security, he has his own training at his agency.
15 Anybody else, like we just don't hire people off
16 the street. Either you are law enforcement or
17 you are a security guard.

18 Q Okay. What is the -- what rules are
19 in place with regard to someone walking out of
20 the door with -- as a security officer, head of
21 security --

22 A Um-hum.

1 Q -- what are the rules regarding
2 someone walking out the door with alcohol?

3 A All right. So from at least the time
4 we are there from 10:00 to 2:00 or 10:00 to 1:30,
5 you are allowed to exit the door to go into the
6 private section where you can smoke and you can
7 sit down and have a beverage. After 2:00, we
8 shut all alcohol -- you are not allowed to have
9 alcohol outside after 2:00. We will stop serving
10 alcohol at 2:30.

11 So like if somebody does go down the
12 steps, we do pressure them, we do tell them that
13 you can go into the common area on the right side
14 of the fence to drink your drink or smoke your
15 cigarette.

16 You do have some individuals who will
17 be talking to somebody and get sidetracked and
18 try to step out the gates, but we always stop you
19 and we will make them go inside or get rid of
20 their drinks.

21 Q Okay. On the night of November 11th,
22 which was a Sunday at 9:00 p.m., was security

1 scheduled, at that time?

2 A No.

3 Q Okay. Would security be scheduled at
4 that time?

5 A On a Sunday? That's up to Mehari,
6 that's his call.

7 Q Okay.

8 A So we are only -- security is really
9 only scheduled for a Friday or Saturday unless,
10 like I said, there is a private party. And if
11 I'm not there, Mehari will handle it himself.

12 Q Okay. Are you familiar with or are
13 you -- do you ever get involved in any of the
14 arrangements for the events that Mr. Weldemariam
15 makes?

16 A No. No, I'm strictly security.

17 Q Okay.

18 MR. NEWMAN: I have no other
19 questions --

20 CHAIRPERSON ANDERSON: Ms. Krupke?

21 MR. NEWMAN: -- at this time.

22 CHAIRPERSON ANDERSON: All right.

1 CROSS-EXAMINATION

2 BY MS. KRUPKE:

3 Q Let's see, earlier you testified that
4 you fill out incident reports?

5 A Yes.

6 Q But then you stated that what you
7 really do is provide information to MPD?

8 A Yeah.

9 Q And so my question is do you fill out
10 incident reports that are specific to Green
11 Island?

12 A I fill out my own incident report.

13 Q Okay.

14 A As me being a federal police officer,
15 I have my own incident reports that I fill out
16 just in case if I have to take that to Court, but
17 I provide the information to MPD.

18 Q Okay.

19 A But we have never had a serious
20 incident where I had to fill out an incident
21 report like that on my shift.

22 Q So you have never filled out a Green

1 Island-specific incident report?

2 A No, I --

3 Q -- in the time working there?

4 A -- as me being there, we have never
5 had an incident like that where I had to fill out
6 a full incident report. I have took down time,
7 date, what the individual was wearing and passed
8 it on to MPD, if it took place outside of the
9 club.

10 Q Okay. Are you aware of an incident
11 log of any type at Green Island?

12 A Sorry, say that again?

13 Q Are you aware of any type of incident
14 log that is kept at Green Island?

15 A I have never seen it, but, yes, I am
16 aware. I know Mehari usually he will keep
17 everything, you know, downstairs in his office.

18 Q But so you haven't seen it?

19 A No.

20 Q Have you heard anyone refer to it?

21 A Yes.

22 Q What do you classify as the type of

1 incident that would warrant an incident report?

2 A Anything from an altercation with a
3 fight, individual who is intoxicated who may have
4 collapsed or got a serious injury that has to be
5 transported to the hospital. Anything where
6 anybody has to be transported to a hospital. If
7 it's just like a regular altercation where there
8 is a fight where you just break it up, I wouldn't
9 do an incident report, but if you have to get
10 transported to emergency, I mean, to a hospital,
11 that's when you do an incident report.

12 Q For security personnel that you hire
13 from another agency, do you provide a copy of the
14 security plan to those individuals?

15 A No.

16 Q Do you train them on the security
17 plan?

18 A I train them, yes, I do.

19 Q Okay.

20 A Any time I bring in a new individual
21 into the establishment, I have them come in
22 probably two hours early. I go over everything

1 with them. I actually know these individuals
2 personally and we just go from there.

3 Q Is it a required practice that the
4 individuals wear all black or a shirt that says
5 security?

6 A Yes.

7 Q So every person who is working
8 security should be easily identifiable --

9 A Yes.

10 Q -- at the club?

11 MS. KRUPKE: I'm referring to what has
12 been marked as Exhibit 3 and I'm handing a copy
13 to the witness of Exhibit 3.

14 BY MS. KRUPKE:

15 Q Can you take a look at this
16 photograph? Can you tell me if these
17 individuals, in your opinion, are on Heaven &
18 Hell property?

19 MR. NEWMAN: What exhibit?

20 CHAIRPERSON ANDERSON: 3.

21 MS. KRUPKE: Exhibit 3 that I referred
22 to earlier.

1 MR. NEWMAN: 3.

2 THE WITNESS: Yes, that is Heaven &
3 Hell. Sorry, that is Heaven & Hell property. If
4 I set up my ropes, my ropes, they will be behind
5 my ropes.

6 BY MS. KRUPKE:

7 Q And where is the area in which a
8 person is allowed to drink alcohol on the
9 sidewalk cafe in relation to the individuals in
10 this photo?

11 A Between the ATM, the far right hand
12 side pillars, the brick pillars. There is
13 usually a rope from the -- all right. There is a
14 rope that is inside of the ATM. It will be
15 touching the ATM. It will come all the way out
16 to the first pillar and there will be another
17 rope from the second pillar to the far right. So
18 that would be inside of -- that would be actually
19 the property of Heaven & Hell.

20 Q And have you ever looked at property
21 reports of any kind to support your estimation?

22 A I'm sorry, say that again?

1 Q Have you ever looked at any sort of
2 building plans or any --

3 A No.

4 Q -- specific knowledge of where the
5 property line ends?

6 A No. I'm just going off of the fenced
7 area that is from Heaven & Hell and the other
8 club next door to us. All the clubs have gates
9 in front of their establishments. So I take that
10 that's their property.

11 MS. KRUPKE: I'll retrieve Exhibit 3.

12 BY MS. KRUPKE:

13 Q Have you ever received an incident
14 report from MPD in relation to an event where
15 this was not scheduled to go to Court?

16 A No.

17 MS. KRUPKE: No further questions.

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

20 MEMBER SHORT: Good afternoon, now it
21 is afternoon. Good afternoon. Your name again
22 is Perry?

1 THE WITNESS: James Perry.

2 MEMBER SHORT: Okay. Thank you for
3 your service, Officer Perry.

4 THE WITNESS: Thank you.

5 MEMBER SHORT: And where do you say
6 you are a federal police, which agency?

7 THE WITNESS: I work for the
8 Department of the Army. I protect the Chairman
9 and the Joint Chiefs of Staff of the whole
10 military.

11 MEMBER SHORT: Big job.

12 THE WITNESS: Thank you.

13 MEMBER SHORT: Now, you also testified
14 that you don't work every weekend, you work every
15 other weekend?

16 THE WITNESS: I'm there, yes, bi-
17 weekly.

18 MEMBER SHORT: Okay. Let me get this
19 straight again. Are you there every weekend?

20 THE WITNESS: I'm sorry. I'm there
21 every other, every Friday -- every other Friday
22 and Saturday, sorry.

1 MEMBER SHORT: So on the Fridays and
2 Saturdays that you are not there, who is in
3 charge of --

4 THE WITNESS: I leave -- his name is
5 Joe Johnson, he has been there for a little while
6 now. I am going to say at least two or three
7 years. I'll leave him in charge, but I'll also
8 make the schedule. They do the same schedule
9 plan. I mean, they do -- they actually perform
10 the same security as when I am there.

11 I do -- I plan all the security, so if
12 anybody shows up that was not on that schedule,
13 they are not supposed to be working. I make the
14 schedule and I leave Joe Johnson in charge.

15 MEMBER SHORT: Okay. Now, let's say
16 a holiday falls on a Wednesday or a Tuesday.

17 THE WITNESS: Okay.

18 MEMBER SHORT: And there is a big
19 event.

20 THE WITNESS: Okay.

21 MEMBER SHORT: So do you come in for
22 those events? Are you assigned --

1 THE WITNESS: Not during the week, no.
2 I believe my -- the next guy, Joe Johnson, in
3 charge or whoever wants to work that individual
4 party. Like I said if that -- If I'm not there
5 and my heart says okay, say like if New Year's
6 fall on or a special event falls on the middle of
7 the week, Mehari will make that call.

8 MEMBER SHORT: Okay. Is it your
9 recollection that sometimes there is a stool at
10 the very top of the steps before you go into the
11 vestibule area?

12 THE WITNESS: Sure.

13 MEMBER SHORT: Who normally sits
14 there?

15 THE WITNESS: Mehari. Either Mehari
16 or his wife. We are always at the bottom of the
17 steps.

18 MEMBER SHORT: Always?

19 THE WITNESS: Unless it's raining.

20 MEMBER SHORT: Okay. So do you have
21 a table or a chair or anything at the bottom of
22 the steps or you just stand there?

1 THE WITNESS: No, security, we stand
2 there and check IDs and search people. We don't
3 have any type of chairs. I mean, I might have a
4 chair there one night just because say when I get
5 there at 10:00, it's not -- it doesn't get busy
6 until at least 12:30, 1:00. So I might stay in
7 the chair. I might get up to only probably 30
8 people in the club until 12:30.

9 MEMBER SHORT: Okay.

10 THE WITNESS: No, there is no tables.

11 MEMBER SHORT: Okay. So did you see
12 the exhibits that were given earlier today with
13 the tables here?

14 THE WITNESS: Yeah.

15 MEMBER SHORT: You weren't there that
16 night on the 11th -- the 17th of August?

17 THE WITNESS: No, sir.

18 MEMBER SHORT: Who was in charge of
19 security that night? You probably did schedule
20 for that.

21 THE WITNESS: I probably scheduled the
22 security. His name was Mike, he is no longer

1 with us right now. He -- I can get in contact
2 with him. He is a good friend of mine, but he --

3 MEMBER SHORT: That's won't help us
4 today, so let's get away from Mike.

5 THE WITNESS: Okay.

6 MEMBER SHORT: So how many people were
7 working security with Mike on August the 17th?

8 THE WITNESS: One.

9 MEMBER SHORT: One person?

10 THE WITNESS: One, yeah, because it
11 wasn't a club night. It was just an event, a
12 small event. Usually when you have small events
13 like that, they don't have up to three, 200 or
14 300 people there. Usually that one event will
15 take up just one floor.

16 MEMBER SHORT: Okay.

17 THE WITNESS: So if they was on the
18 second level, you would only need one security
19 guard for that second level. And then also they
20 provide their own. When I showed up, they had
21 provided their own guy at the door or --

22 MEMBER SHORT: Okay. So wait a

1 minute. Please, let me get this straight.

2 THE WITNESS: Okay.

3 MEMBER SHORT: I'm trying to
4 understand.

5 THE WITNESS: Okay.

6 MEMBER SHORT: So if I rent the club
7 at 2327 --

8 THE WITNESS: Correct.

9 MEMBER SHORT: -- I can bring my own
10 security in when I have an event?

11 THE WITNESS: Yeah. You -- well, you
12 would take -- yeah. When I came, I have seen
13 guys at the door who are standing at -- like say
14 if you go up to the very top part, what they call
15 Heaven, I had -- I have seen guys who are
16 standing at that door and not allow you to come
17 in, you need to have a wristband.

18 And then I will provide my own
19 security there just in case an altercation breaks
20 out.

21 MEMBER SHORT: So pretty much, they
22 are running the club?

1 THE WITNESS: Pretty much, yeah.
2 Unless I have my security there, yes, that is
3 their -- that's a private event, so say like if
4 you are having a birthday, like a retirement
5 party there --

6 MEMBER SHORT: For the record --

7 THE WITNESS: Okay.

8 MEMBER SHORT: -- with all your
9 training and everything you have, for the
10 record --

11 THE WITNESS: Okay.

12 MEMBER SHORT: -- on the night that
13 this table was sitting out front on the 17th of
14 August --

15 THE WITNESS: Yeah.

16 MEMBER SHORT: -- the people who were
17 renting that club and the people that were taking
18 tickets at the door with the table blocking the
19 sidewalk, they were running the club?

20 THE WITNESS: None --

21 MR. NEWMAN: Objection. Objection.

22 CHAIRPERSON ANDERSON: What's the

1 nature of the objection?

2 MR. NEWMAN: He wasn't there. He
3 can't testify to that. We have already --
4 counsel already raised an objection that was
5 sustained that he couldn't testify to something
6 he didn't know, because he wasn't there.

7 CHAIRPERSON ANDERSON: All right. So
8 I'm going to sustain the objection, because Mr.
9 Wiggins had testified that he was not there that
10 -- so since he doesn't have personal knowledge,
11 so he can't testify.

12 MEMBER SHORT: Okay. That was Mr.
13 Wiggins' testimony, not Mr. Perry's.

14 CHAIRPERSON ANDERSON: I'm sorry.
15 That was -- I'm sorry. I apologize. That was
16 Mr. Perry's testimony. Mr. Perry testified --

17 MEMBER SHORT: Okay.

18 CHAIRPERSON ANDERSON: -- that he was
19 not working that night. And so therefore because
20 he was not working that night, there are a lot of
21 questions that --

22 MEMBER SHORT: All right. Let me ask

1 it another kind of way.

2 THE WITNESS: Okay.

3 MEMBER SHORT: Normally when you are
4 not there and you don't arrange any security
5 because of private events, small event as you
6 would say.

7 THE WITNESS: Right.

8 MEMBER SHORT: And like the night on
9 the 17th, was that kind of a night?

10 THE WITNESS: Yeah, that would be a
11 small night, but I remember that night I did
12 provide security, one security guard for that
13 night.

14 So like I said when you have like
15 party like that, it's not a lot of people, so you
16 wouldn't need --

17 MEMBER SHORT: Okay. Well, I know you
18 were saying -- I heard the Investigator say that
19 they didn't see any security anywhere in the club
20 that night. Nobody identified themselves to the
21 Investigators when they were there on the 17th as
22 security.

1 THE WITNESS: Right, because he said
2 he went to the door. He wasn't checking IDs at
3 that door. He was inside being security. And
4 there is two levels, I don't know if he went up
5 to the second level, but he is a roaming security
6 guard. There is two levels open.

7 MEMBER SHORT: I understand. And --

8 THE WITNESS: And on that night last
9 year, there could have been three levels, because
10 we do have three levels. But I don't -- I wasn't
11 there that night, so I don't know if the third
12 level was open, that's usually restaurant hours.

13 MEMBER SHORT: The Investigator's
14 testimony was that he went through the club and
15 he did an inspection of the club. And he said he
16 didn't see any security anywhere when he was
17 there and when he was talking to the owner of the
18 club. And the owner came down to the front door
19 and they were having their discussion. And
20 that's when the young lady walked down the street
21 with the glass.

22 So where was security then? Where was

1 security -- if there was security there and the
2 Investigator didn't see him, can you explain how
3 that could happen?

4 THE WITNESS: Yeah, it can happen a
5 lot, that's a big establishment. You have
6 upstairs that has a VIP Section. Did he go into
7 the VIP Section? The security could have went
8 and used the bathroom. There is a back balcony,
9 he could have been checking to see if he was back
10 there. I'm not sure.

11 MEMBER SHORT: Okay. Well, the
12 Investigator was there for 40 minutes or so
13 during this investigation.

14 THE WITNESS: Right. He also -- the
15 Investigator also said that it went up to 10:15
16 and I get there at 10:00. I didn't see no -- I
17 didn't -- well, I wasn't there. Sorry. Okay.

18 MEMBER SHORT: Okay. You weren't
19 there.

20 THE WITNESS: I mean, I get there at
21 10:00, but I would have had another security guy
22 there at 10:00.

1 MEMBER SHORT: You weren't there that
2 night?

3 THE WITNESS: No, no, no. Yeah, I
4 would have had -- another guy would have been
5 there at 10:00. We get there at 10:00.

6 MEMBER SHORT: Okay. And this
7 incident, according to the report that we have
8 for August the 17th, says that the Investigator
9 got there at 10:15 and he said he did not see any
10 security there. Could that possibly have
11 happened?

12 THE WITNESS: That could possibly
13 happen, but when I was listening he also said he
14 was there at 9:00.

15 MEMBER SHORT: Well, but you testified
16 that you wouldn't expect security to be there.

17 THE WITNESS: Yeah, no, no, no. I'm
18 not talking about security. I'm talking about
19 the Investigator. When he was up here, he
20 actually said he was there at 9:00 and it over
21 until 10:30.

22 MEMBER SHORT: Yes, that's good. We

1 know the Investigator was there.

2 THE WITNESS: Okay.

3 MEMBER SHORT: We're trying to find
4 out if --

5 THE WITNESS: Okay. My security gets
6 there at 10:00, unless he was running behind. We
7 will -- if somebody is in traffic going to D.C.,
8 we will let Mehari know that we are running late,
9 whatever, 30 minutes late or something like that,
10 but --

11 MEMBER SHORT: So your testimony --

12 THE WITNESS: -- I didn't get any
13 notice of that.

14 MEMBER SHORT: -- is possibly --

15 THE WITNESS: Possibly.

16 MEMBER SHORT: -- the Investigator
17 could have been correct that there was no
18 security there?

19 THE WITNESS: Yes, sir.

20 MEMBER SHORT: It's possible?

21 THE WITNESS: Possible, yes, sir.

22 MEMBER SHORT: Okay. All right. How

1 many, on average, fights do you see on a weekend
2 at this location?

3 THE WITNESS: On average, that's hard
4 to answer. On overage, we don't get that many
5 fights in the club. I haven't seen a fight all
6 this year in the club, all this year.

7 MEMBER SHORT: Are you familiar with
8 the history of the club?

9 THE WITNESS: Yes.

10 MEMBER SHORT: The investigative
11 history?

12 THE WITNESS: Yes.

13 MEMBER SHORT: You are familiar with
14 it?

15 THE WITNESS: Yes.

16 MEMBER SHORT: Mr. Chair, can I
17 possibly ask if he can get a copy of the
18 investigative history so --

19 MR. NEWMAN: Sure.

20 MEMBER SHORT: -- can he be --

21 CHAIRPERSON ANDERSON: Sure. I think
22 it is -- you guys have the case report. The case

1 report has the investigative history. Someone
2 can point -- provide him the investigative
3 history.

4 MEMBER SHORT: Okay. If you have the
5 August -- no, okay, let me see. The August 17th
6 Investigative Report is that the date on the top
7 of the investigative report, August 17th?

8 CHAIRPERSON ANDERSON: Now, which case
9 report did you give him? Did you give him the --

10 THE WITNESS: I have the investigative
11 history.

12 CHAIRPERSON ANDERSON: -- case report
13 that is dated August 17?

14 MR. NEWMAN: The investigative
15 history.

16 CHAIRPERSON ANDERSON: Well, I know,
17 but --

18 MEMBER SHORT: On the front.

19 MR. NEWMAN: And the case for August
20 17th.

21 CHAIRPERSON ANDERSON: Fine.

22 MEMBER SHORT: Okay. And if you go to

1 the fourth page at the very top it says
2 "Investigative History."

3 THE WITNESS: Yes, sir.

4 MEMBER SHORT: Okay. And so how many
5 years have you worked there? Six years?

6 THE WITNESS: Going on six years, sir.

7 MEMBER SHORT: So that would take us
8 back to what 20 --

9 MR. NEWMAN: What year?

10 MEMBER SHORT: Okay. For the record,
11 what year did you start working for them as head
12 of security? What year did you start? That way
13 we can -- when we go through the history, I can't
14 hold you accountable for anything other than the
15 years you've worked there. So I would just like
16 to know for the record what year did you start?

17 THE WITNESS: I believe it was around
18 2014.

19 MEMBER SHORT: 2014.

20 THE WITNESS: Um-hum.

21 MEMBER SHORT: Okay. So if you go to
22 Page No. 5, are you familiar when they say Case

1 No. 14-251? What does that 251 indicate?

2 THE WITNESS: Took the person to
3 hospital.

4 MEMBER SHORT: No, what does 251
5 indicate? For purposes of this hearing, that
6 means a police report was generated. Every time
7 you see one of these cases with 251 on it, that
8 means the Police Department was involved.

9 THE WITNESS: Right.

10 MEMBER SHORT: Okay. So were you
11 working that night on 9/27/14?

12 THE WITNESS: I'm not sure, sir. I
13 wasn't head of security then.

14 MR. NEWMAN: Objection.

15 MEMBER SHORT: I'm just going over the
16 -- he has got an objection, Mr. Chair.

17 CHAIRPERSON ANDERSON: What's the
18 objection?

19 MR. NEWMAN: I'm sure -- again, what
20 is the relevance to the charges for today going
21 over the history --

22 CHAIRPERSON ANDERSON: Well, I --

1 MR. NEWMAN: of 2014?

2 CHAIRPERSON ANDERSON: -- believe that
3 the question that was being asked, he said that
4 he was -- he had stated as in the position he was
5 that he was familiar with the investigative
6 history. And I think, I just think, that Mr.
7 Short was just asking him, since he said he was
8 familiar with the investigative history, was
9 going over the investigative history with him.

10 MR. NEWMAN: And I appreciate that,
11 but the relevance of doing that with regard to
12 today's proceedings is what the objection is on.

13 CHAIRPERSON ANDERSON: All right. I
14 am going to -- I'll sustain the objection. You
15 can't ask him the questions, Mr. Short, because
16 the issues that are involved in particular, at
17 least in these -- one of the questions -- I'm
18 sorry. None of the charges had to do with past
19 history.

20 So I'm sustaining the objection so for
21 you not to ask him questions about the
22 investigative history.

1 MEMBER SHORT: All right. Mr. Chair,
2 I have no further questions. Thank you very
3 much.

4 CHAIRPERSON ANDERSON: Do we have any
5 other questions by any other Board Members?

6 Mr. Perry?

7 THE WITNESS: Yes, sir.

8 CHAIRPERSON ANDERSON: I just want --
9 just for clarification again, what is your role
10 at Heaven & Hell again? You --

11 THE WITNESS: I am the lead security.

12 CHAIRPERSON ANDERSON: You are the
13 lead security.

14 THE WITNESS: Yes.

15 CHAIRPERSON ANDERSON: Meaning that
16 you are the one who -- you said that you are the
17 one who assigns folks to work?

18 THE WITNESS: Correct. Basically, I'm
19 in charge. Like if one of the security finds an
20 ID he is not sure about, he will come to me or if
21 he has some type of pepper spray or any type of
22 device on his car keys, they will come to me.

1 CHAIRPERSON ANDERSON: All right. So
2 is there a security manager? Was there another
3 person who is considered the security manager or
4 are you the top security person?

5 THE WITNESS: I'm the top security.

6 CHAIRPERSON ANDERSON: So if you are
7 the top security person at this establishment,
8 and you said -- aren't you aware that on Friday
9 nights that there has to be two security guards
10 working?

11 THE WITNESS: Yes.

12 CHAIRPERSON ANDERSON: So why wasn't
13 there two security guards working on August 17th?

14 THE WITNESS: Because on August 17th,
15 like I said, I wasn't there that night, but any
16 time before 10:00, we are not scheduled to come
17 in until 10:00.

18 CHAIRPERSON ANDERSON: No, but you
19 testified that only one person was assigned that
20 night. I'm trying to find out how many people --

21 THE WITNESS: That's for private
22 parties.

1 CHAIRPERSON ANDERSON: But the
2 security agreement, you are the top security for
3 this establishment.

4 THE WITNESS: Right.

5 CHAIRPERSON ANDERSON: And the
6 security plan --

7 THE WITNESS: Right.

8 CHAIRPERSON ANDERSON: -- says that on
9 Friday nights, which August 17th was a Friday
10 night, that there must be two security guards.
11 So if it says there must be two security guards,
12 why didn't you assign two security guards to work
13 that event?

14 THE WITNESS: Like I said, I don't
15 know what is in the agreement with that. I just
16 know for the club purposes, we have two security
17 there to a certain time, up to six. Private
18 parties that doesn't have over 100 people, we
19 would only do one security and that's around
20 kitchen time.

21 So on Friday, on that Friday, there
22 were at least four security guards there after

1 10:00.

2 CHAIRPERSON ANDERSON: The concern
3 that I am having, sir, is because I'm looking at
4 the security plan.

5 THE WITNESS: Yes, sir.

6 CHAIRPERSON ANDERSON: And you are it.
7 Okay. And based on the way the security plan is
8 written, it says that you are the man who is
9 responsible for all matters concerning security
10 matters and additional training and position of
11 the security staff throughout the club.

12 And so that's why -- this is what the
13 security agreement says. That's why I asked you
14 the question.

15 THE WITNESS: Right.

16 CHAIRPERSON ANDERSON: If you were the
17 -- there is another name or there is a position
18 called a security manager and that's why I was
19 asking you.

20 THE WITNESS: Right.

21 CHAIRPERSON ANDERSON: And so that's
22 why I'm curious why is it that at least the night

1 there was not appropriate security in place that
2 night.

3 THE WITNESS: I understand. I
4 understand. Like I said, it goes up like the
5 chain of command, so he -- as Mehari being the
6 highest, he tells me what events he is having and
7 how many people he needs for that night, that's
8 what I provide for him.

9 All I know is that during club time,
10 that's when I provide my security detail of four
11 to six people, depending on what level of the
12 club is open.

13 CHAIRPERSON ANDERSON: All right. All
14 right. I don't have any other questions. Any
15 other questions by any of the Board Members? All
16 right. So it's your witness, so Ms. Krupke, you
17 can go and then you can end it.

18 MR. NEWMAN: Okay.

19 MS. KRUPKE: I have no questions.

20 CHAIRPERSON ANDERSON: No?

21 MR. NEWMAN: Just a quick follow-up.

22 REDIRECT EXAMINATION

1 BY MR. NEWMAN:

2 Q On the night of the 17th after 10:00
3 p.m., did you, in fact, schedule more than two
4 security guards or more than one security guard
5 that night?

6 A No, I only scheduled one, Mike
7 Galloway.

8 Q After 10:00 p.m.?

9 A After 10:00 p.m., yes, for -- Mike
10 Galloway's day is over and three other guys came
11 in.

12 Q Now, let me ask -- okay, I think there
13 is confusion.

14 CHAIRPERSON ANDERSON: I mean, I'm
15 confused.

16 BY MR. NEWMAN:

17 Q How many people were scheduled for
18 security when the club opened?

19 A Four.

20 Q On the night of August 17th?

21 A Yes.

22 Q Okay. Prior to that, how many people

1 were scheduled?

2 A What do you mean prior?

3 Q Prior to the club opening --

4 A Right, one.

5 Q -- for the event that was going on at

6 that time, how many people were scheduled?

7 A One.

8 Q And you said that you made the

9 arrangements for, you said his name was, Mike?

10 A Yes.

11 Q For Mike to work the event?

12 A Yes.

13 Q Okay. Do you know what Mike was

14 wearing that day?

15 A I don't know. I was not there. I

16 wasn't present.

17 Q Okay.

18 A He should have been wearing regular

19 TDUs, black shirt, boots.

20 Q Okay.

21 A Sometimes he has a security shirt on.

22 Q All right.

1 A He is --

2 MR. NEWMAN: No more questions.

3 CHAIRPERSON ANDERSON: All right.

4 Okay. I'm going to take the Chairman's
5 prerogative, because it's -- this is -- so I'm
6 going to open up a line of questioning, because
7 I'm confused. Okay. And this is actually very
8 important.

9 How many security personnel was
10 assigned to work on August 17th?

11 THE WITNESS: Four.

12 CHAIRPERSON ANDERSON: Who are the
13 four security personnel who was assigned to work?

14 THE WITNESS: Yeah, Mike Galloway, I
15 had Joe Johnson, you had Jay -- I don't know
16 Daray's last name. We had Daray and then had
17 another guy named Chaney.

18 CHAIRPERSON ANDERSON: And what time
19 were these folks scheduled to be there?

20 THE WITNESS: Mike Galloway was
21 scheduled to be there for that party, whatever
22 time that party started. Everybody else, I had

1 three guys coming in at 10:00 and another two
2 guys coming in at 11:00.

3 CHAIRPERSON ANDERSON: So do you
4 know --

5 THE WITNESS: Well, Mike Galloway he
6 rolled over to the 10:00 crew.

7 CHAIRPERSON ANDERSON: All right. So
8 he rolled to 10:00. So did you know whether or
9 not -- do you know what time these people
10 actually showed up?

11 THE WITNESS: I do not. I was not
12 there for the night.

13 CHAIRPERSON ANDERSON: Well, but I
14 know you weren't there. I'm asking do you know
15 what time they show up? Do you know what time
16 they --

17 THE WITNESS: What time did they show
18 up?

19 CHAIRPERSON ANDERSON: Yeah, do you
20 know?

21 THE WITNESS: I don't know what time
22 they showed up, but they were supposed to show up

1 at 10:00 and 11:00.

2 CHAIRPERSON ANDERSON: But you don't
3 know what time they showed up?

4 THE WITNESS: No, sir.

5 MEMBER CROCKETT: May I ask a
6 question?

7 CHAIRPERSON ANDERSON: Yes, go ahead,
8 Ms. Crockett.

9 MEMBER CROCKETT: Can you -- do you
10 know what time this event was scheduled to begin?
11 We know that their club starts at 10:00, but --

12 THE WITNESS: 8:00 to 10:00.

13 MEMBER CROCKETT: -- that you had one
14 security guard assigned to the event. What time
15 was the event scheduled to start with that one
16 security guard?

17 THE WITNESS: Well, that -- I
18 scheduled for the guy going in there at least
19 between like 7:00 and 7:30.

20 MEMBER CROCKETT: Okay. So 7:00.

21 THE WITNESS: Yeah. So I mean, I
22 don't know what time the event actually started,

1 but I scheduled him to go in between 7:00 and
2 7:30.

3 MEMBER CROCKETT: Okay. Thank you.

4 CHAIRPERSON ANDERSON: Ms. Krupke, do
5 you have any questions you want to ask based on
6 the questions that the Board asked?

7 MS. KRUPKE: Uh, no.

8 CHAIRPERSON ANDERSON: No?

9 MR. NEWMAN: Can I just do some
10 follow-up?

11 CHAIRPERSON ANDERSON: Yes, you may.

12 RE-REDIRECT EXAMINATION

13 BY MR. NEWMAN:

14 Q And you do know that Mike -- according
15 to your email, that Mike did show up for the
16 event?

17 A Yes.

18 Q And are you aware whether or not Mike
19 stayed there beyond the event for his evening
20 shift?

21 MS. KRUPKE: Objection. He lacks
22 personal knowledge.

1 MR. NEWMAN: This was asked by the
2 Board regarding Mike and regarding the schedule
3 who was there. I'm just clarifying what the
4 Board had already asked the witness.

5 CHAIRPERSON ANDERSON: I'm going to
6 overrule the objection, because he did provide
7 some answer, so I guess he is trying to clarify
8 the record, but he did provide the answer prior
9 and we'll just take it for what it is, since he
10 doesn't have any personal knowledge. You can go
11 ahead and answer the question.

12 BY MR. NEWMAN:

13 Q And do your knowledge, Mike was -- in
14 fact, did stay for his second or for the
15 scheduled 10:00 shift?

16 A Yes, sir. I always call my
17 individuals on that Sunday and ask them how both
18 days went. Did they have any altercations?
19 Because they usually call me and tell me what
20 happened.

21 Q Okay. Thank you.

22 CHAIRPERSON ANDERSON: All right. All

1 right. Since the Board is confused, go ahead,
2 Ms. Crockett.

3 MEMBER CROCKETT: You just testified
4 that on Sundays your guys call you and let you
5 know how the weekend went.

6 THE WITNESS: Yes.

7 MEMBER CROCKETT: So did you speak to
8 your guys? I guess that would now be August 19th,
9 would be that Sunday.

10 THE WITNESS: Yes.

11 MEMBER CROCKETT: And did they happen
12 to mention ABRA and MPD were present?

13 THE WITNESS: Well --

14 MEMBER CROCKETT: Okay.

15 THE WITNESS: -- I asked them if there
16 was anything that happened. As all -- like I
17 told you, I'm there every other weekend. So the
18 weekends that I'm not there, I always call on a
19 Sunday to see how Friday, Saturday went and if
20 any altercations with MPD. Nobody told me
21 anything.

22 MEMBER CROCKETT: So you did not have

1 any --

2 THE WITNESS: Like I'm just -- this is
3 the first time I'm hearing about --

4 (Simultaneous speaking.)

5 MEMBER CROCKETT: -- on the premises
6 on August 17th?

7 THE WITNESS: No.

8 MEMBER CROCKETT: Thank you.

9 CHAIRPERSON ANDERSON: You will have
10 an opportunity. Ms. Crockett?

11 MEMBER CROCKETT: No questions.

12 CHAIRPERSON ANDERSON: Mr. Newman, you
13 have an opportunity based on the questions that
14 was asked by the Board.

15 RE-REDIRECT EXAMINATION

16 BY MR. NEWMAN:

17 Q Would ABRA's presence be something
18 that your security would -- typically when you
19 have your Sunday calls, that they would ask about
20 or notify you about as an incident?

21 A Not if it was a serious incident.

22 Like I said, my security would only tell me if

1 something happened that involves them. So if
2 anything before the time they got there, and if
3 it wasn't like serious where, you know, police
4 ran up in there and we had to shut the club down
5 or we had to send somebody to the hospital, they
6 are not going to speak up on it.

7 Q Thank you.

8 A Because it wasn't involving them.

9 Q Thank you.

10 CHAIRPERSON ANDERSON: Thank you very
11 much, Mr. Perry, for your testimony.

12 THE WITNESS: I appreciate that.

13 CHAIRPERSON ANDERSON: You can step
14 down. I know you are glad you are stepping down.

15 MR. PERRY: Oh, no, I could talk to
16 you all day.

17 CHAIRPERSON ANDERSON: All right. All
18 right. Do you have another witness you want to
19 call or we can take a break. We can -- all
20 right. What do you want to do? I know we have a
21 1:00 hearing that I'm not quite sure what -- or
22 1:30 hearing, but I'm not sure what is going to

1 happen.

2 MR. NEWMAN: If I may, if we could
3 just take a five minute break? I'm calling my
4 last witness and then --

5 CHAIRPERSON ANDERSON: All right.

6 Okay. We will --

7 MEMBER SILVERSTEIN: Mr. Chairman?

8 CHAIRPERSON ANDERSON: -- come back at
9 1:00. Yes, Mr. Silverstein?

10 MEMBER SILVERSTEIN: I would like to
11 get some lunch.

12 CHAIRPERSON ANDERSON: I'm sorry?

13 MEMBER SILVERSTEIN: My blood sugar is
14 down. I would like to get some lunch.

15 CHAIRPERSON ANDERSON: I can't -- I
16 don't want to take a formal hour lunch break. I
17 mean, we will take a lunch break before our first
18 hearing, but I don't want to -- I don't -- based
19 on the way this -- our day is, I don't want to
20 take a -- in the middle of this hearing, I don't
21 want to take a formal break.

22 So we will take a 10 minute break and

1 if you need to -- you can -- so we will take a 10
2 minute break, so we will come back at 1:00.

3 So we are in recess until 1:00.

4 MEMBER SILVERSTEIN: All right.

5 (Whereupon, the above-entitled matter
6 went off the record at 12:48 p.m. and resumed at
7 1:05 p.m.)

8 CHAIRPERSON ANDERSON: All right. We
9 are back on the record. Do you have another
10 witness?

11 MR. NEWMAN: Yes, I do. I would like
12 to call Mehari Weldemariam.

13 CHAIRPERSON ANDERSON: Yes, Mr.
14 Weldemariam, can you raise your right hand, sir?
15 Whereupon,

16 MEHARI WELDEMARIAM
17 was called as a witness by Counsel for the
18 Licensee, and having been first duly sworn,
19 assumed the witness stand and was examined and
20 testified as follows:

21 MR. WELDEMARIAM: Yes.

22 CHAIRPERSON ANDERSON: Have a seat,

1 please. Your witness, sir.

2 DIRECT EXAMINATION

3 BY MR. NEWMAN:

4 Q Mr. Weldemariam, could you say your
5 name and spell it for the record, please?

6 A Mehari Weldemariam, M-E-H-A-R-I last
7 name W-E-L-D-E-M-A-R-I-A-M.

8 Q And do you typically go by the name
9 Mehari?

10 A Yes.

11 Q Okay. Where do you work?

12 A I work in Green Island Cafe.

13 Q And how long have you worked there?

14 A 39 years.

15 Q Okay. Do you actually -- do you own
16 the premises?

17 A Yes, I do.

18 Q All right. Do you have an ABC
19 Manager? Are you an ABC Manager?

20 A No, I'm as an owner.

21 Q Good, okay. I want to -- do you
22 usually have events at your establishment?

1 A Yes.

2 Q Okay. Before I get to that, is your
3 establishment licensed to serve alcohol?

4 A Yes.

5 Q Okay. When does your license expire?
6 Do you know?

7 A Say it again.

8 Q Do you know when your license expires?

9 A It will be expired in a couple of
10 months right now.

11 Q Okay. How many years have you had a
12 license to serve alcohol?

13 A I would say I sell alcohol for 46
14 years in Washington, D.C., but to be in my own is
15 39 years.

16 Q Okay. Could you describe your
17 establishment?

18 A Well, my establishment is located at
19 2327 18th Street. It's described as one of the
20 fine establishments for so long as the circle of
21 Adams Morgan, based on experience how many
22 patrons come there and having a good time, meet

1 in my place and get married, about 700, 82 people
2 got value family and kids, grandkids and they
3 come and visit as museum. Oh, that's where we
4 met and showing the kid and grandkids.

5 So I describe myself, my place one of
6 the best places in Adams Morgan and a well
7 establishment in getting the -- the best of the
8 best.

9 Q Okay. So how -- let's be a little
10 more specific. In terms of activities or
11 services you provided at your establishment, what
12 are some of the services and what are the
13 schedules?

14 A Well, normally we always open from
15 5:30, 6:00 when we have good business or dinner
16 set up. We sell food always to customers and
17 among the people want some private party or
18 private events, they will come as well. So they
19 set up time with me and I allow them to do it.

20 Q Okay. So from the -- so you have a
21 restaurant?

22 A Yes.

1 Q Okay. What times and your -- what
2 days are you open or is the restaurant open?

3 A Well, normally we are open Tuesday.
4 Monday, I closed. Tuesday at 5:00. I stay under
5 8:00, 10:00, 9:00. If it's not busy, I close
6 early. Same thing on Wednesday, I had a couple
7 of people for dinner, after that we leave early.
8 But Thursday start picking up very good, we stay
9 late until 1:00.

10 Q Okay. And what about -- until 1:00
11 for the restaurant?

12 A Yes.

13 Q Okay. What about Friday and Saturday?

14 A 1:00 is closing time. I sell food
15 until 11:00.

16 Q Okay. All right. What about on --
17 well, what happens at -- so if you serve food
18 until 11:00, what happens from 11:00 to 1:00?

19 A Well, if there is any -- we have a
20 customer, we keep hosting them the best we could.
21 After that, we shut down.

22 Q All right. And what about on Friday

1 and Saturday?

2 A Friday and Saturday, normally we have
3 open to food. Sometimes we have jazz in the
4 middle floor and have serving dinner. And also
5 on second floor we have the comedy show, very
6 successful people buy ticket online, provide the
7 ticket, we will let them in and sit, serve them
8 food and drink.

9 Q What time does the restaurant or the
10 bands or the comedy club run until?

11 A Comedy club open at 8:00 and end at
12 10:00, 10:30. Restaurant open at 6:00 it ends
13 selling food about 11:30.

14 Q Okay.

15 A Doing plenty on Saturday.

16 Q Right. Do you -- during the
17 restaurant hours, do you serve alcohol?

18 A Yes, I do.

19 Q Okay. And you said you serve meals?

20 A Yes.

21 Q Can a family of, you know, parents and
22 children, come in for a meal?

1 A Everybody --

2 Q Okay.

3 A -- must eat food.

4 Q Right. And do you have families come
5 in for meals during restaurant hours?

6 A Yes, I do.

7 Q Okay. On Sundays, what is your
8 schedule like?

9 A On Sunday, unless I have any activity
10 or live jazz, we open our one hour at 5:00. We
11 end at, finish about 9:30, 10:00, we are done.

12 Q Okay.

13 A If it's some people we stay, but if
14 not, most of Adams Morgan live in that area.

15 Q So after the restaurant hours, what
16 happens on Friday and Saturday?

17 A Well, we serve the food until 11:30.
18 After that, the comedy show will be over and we
19 will set up DJs on two floor we play music. And
20 I would ask to come open the front door and
21 charge a cover charge for the -- collect money
22 for the security and for the DJs and all, so

1 that's what I do.

2 Q And on Fridays and Saturdays -- well,
3 so before -- those restaurant hours on -- during
4 the week, about how many people do you have in
5 your establishment during those hours?

6 A Time-wise, what time to what time?

7 Q Let's say from 8:00 to 10:00 or the
8 restaurant hours.

9 A From 8:00 to -- the restaurant hours,
10 I would have like 50, 60 people.

11 Q Okay. And are all of them at the --
12 seated at tables or some of them at the bar?

13 Do you also have a bar in the
14 restaurant area?

15 A Yes, I do.

16 Q Okay. So of that 50 and 60 people, do
17 you sometimes have people also sitting at the
18 Bar?

19 A Yeah, I have two or three people, four
20 people at tables and sitting at the bar.

21 Q Okay. During restaurant hours, do you
22 have security?

1 A During security -- I mean, during
2 dinner time I don't have security.

3 Q Okay. And why not?

4 A Because the business is not enough.
5 And also both of us there, myself and my wife,
6 and then it's most likely people even underage
7 they don't come with the parents, we don't let
8 them in. They have to come with a guardian or
9 family and have a dinner, then they are allowed,
10 if not, we don't.

11 So even my servers and bartenders come
12 and ask them if they come by themselves, they won't
13 let them sit down even for dinner, because we are
14 not going to keep an eye 24/7 for those people.

15 Q Okay. Is anyone checking IDs during
16 restaurant hours?

17 A Yes, we do. Every person working in
18 that place will check the ID.

19 Q Do they check IDs at the door during
20 restaurant hours?

21 A Check ID at the table.

22 Q Okay. Do you also check it at the

1 bar?

2 A Yes.

3 Q And how do you know that it -- IDs are
4 being checked?

5 A Say it again?

6 Q How do you know IDs are being checked?

7 A Well, this is the way I guide by
8 employees every individual one of them. That's
9 the way it is supposed to do, that's the way I
10 train them. And they accept my order, they do
11 the right job. And also one of us there, they
12 don't check it, we go back and check ourself.

13 Q And how do you go back and check?

14 A We kind of ask, I'm sorry, for ID,
15 because you look so young, can I check your ID
16 again?

17 Q Have you ever been in a situation
18 where you have done that and someone has been --
19 has gotten aggressive or insulted?

20 A Well, depending on how you handle it.
21 You have to be very polite to the public first
22 before they get offended. If you polite to them,

1 they will be polite to you. The way you act is
2 the main key.

3 Q Okay. Do you collaborate with -- so
4 you talked about other events and the comedy
5 hour.

6 A Yes.

7 Q And the comedy show. How do you --
8 how are those events set up and arranged?

9 A Well, they set up and arrange is if
10 the people has a comedy show, they buy a ticket
11 online. They come. We check their ID, up front
12 before they get in there. Second floor also as
13 well, we check the ID, because we have business
14 and all that stuff.

15 Then we make sure they get a table.
16 We host them to the table. They get the table,
17 they order food and they order drinks before the
18 comedy starts. When the comedy starts, we went
19 quiet. And but my server, my bartender go ever
20 table and check with them as well.

21 Q Okay. How was the comedy show or
22 event, how was it set up? Who reached out to you

1 or did you reach out to somebody else?

2 MS. KRUPKE: Objection. What's the
3 relevance of a comedy event that is not in
4 question at this time? I don't know.

5 CHAIRPERSON ANDERSON: Mr. Newman?

6 MR. NEWMAN: We are trying to
7 establish is the fact that there are things that
8 happen before 10:00 that are not necessarily
9 security-based and things that happen after
10 10:00. I'll go very quickly to be able to do
11 that.

12 The argument that was there, was that
13 there was something, an event that was going on
14 before when the Investigator got there. We are
15 trying to establish that different types of
16 events that occur and what the procedures are for
17 making them.

18 It was asked earlier about how those
19 events are created, what contracts, what the
20 arrangements are for security, and that's the
21 best line of questioning that we can go to.

22 CHAIRPERSON ANDERSON: I'm going to

1 overrule the objection. I think that Mr. Mehari
2 is the owner of the establishment and I think
3 that he has given us a basis of where we are. So
4 I'm going to overrule the objection. Go ahead.

5 BY MR. NEWMAN:

6 Q Does someone run the comedy hour with
7 you or --

8 A Yes.

9 Q -- for you?

10 A Yes.

11 Q How did that arrangement come to be?

12 A The comedian together they market it
13 as a comedy and they have the event and I sell
14 food and drinks from that.

15 Q Okay. And is there security during
16 that time?

17 A Yes.

18 Q During the comedy hour, there is
19 security?

20 A Yes.

21 Q Who provides the security?

22 A We have my guy's son, he check the ID

1 before they come in.

2 Q So from -- and between 8:00 and 10:00
3 when the comedy hour --

4 A Yes.

5 Q -- is running, you have somebody there
6 to check security?

7 A Oh, yes.

8 Q Okay.

9 A We have to check ID as well we have to
10 check the ticket online. The second one we have
11 a hostess who bring them to the table.

12 Q So the person that you call security,
13 are they the individual that checks ID?

14 A No, they all associated with me.

15 Q Okay.

16 A Okay. I tell them what to do and one
17 server, the first server is ID in front, second
18 server ticket the server supposed --

19 Q All right. So let's move away from
20 the comedy for a second or forever.

21 Let's go to other types of events,
22 specifically the event on August 17th.

1 A Um-hum.

2 Q Do you recall that?

3 A Yes, I do.

4 Q Okay. Do you recall what kind of
5 event that was?

6 A It was a group of musician, a group of
7 youngsters to build the music and all that stuff.
8 And I welcome them on the premise. They sell a
9 ticket and I sell my own drink, my own food and
10 provide and as well we have somebody from us if
11 not, I call a friend to check everything like,
12 example, Bill. I let him sit down there and he
13 is some help and he done it.

14 It was very successful night until
15 after I show up or --

16 Q Well, we will get to that.

17 A Okay.

18 Q Did you have security at that event?

19 A I do have Mike, at that time.

20 Q Who assigned Mike that night?

21 A I called Mike myself. Perry, he give
22 me the number, I call him.

1 Q Okay. And so downstairs --

2 A Um-hum.

3 Q -- the table that was set up
4 downstairs --

5 A Um-hum.

6 Q -- that you saw in Exhibit 3 --

7 A Um-hum.

8 Q -- well, actually, can I have
9 Government's Exhibit 3, please?

10 MR. NEWMAN: I would like to present
11 to the witness Government's Exhibit 3.

12 THE WITNESS: Um-hum.

13 BY MR. NEWMAN:

14 Q All right. Do you recognize that
15 picture?

16 A Yes, I do.

17 Q Okay. And what is it?

18 A That picture was the people was check
19 on the ticket from Eventbrite. And of course,
20 downstairs business was closed. They put next to
21 the fence the table and this -- and the left hand
22 side is to get entrance to the door. And I

1 remember about the beer, okay, but they are
2 inside the premise of Green Island.

3 Q Okay. So --

4 A They are not outside in the street.

5 Q -- when you -- let me ask you
6 questions, please.

7 Did you know they were there?

8 A Yes, I do.

9 Q Okay. Have you set up there in the
10 past?

11 A Never.

12 Q Okay. Well, why were they set up
13 there for this particular event?

14 A There was -- they asked me if we can
15 set out and check the ID. They didn't ask me if
16 they bring their beer and well, you can check up
17 here and make sure they have the ticket and let
18 them in.

19 Q Okay.

20 A That's what happened and that will be
21 the last time. Thank you.

22 Q Okay. So but you do see Plaintiff's

1 Exhibit 4, please.

2 CHAIRPERSON ANDERSON: That's five.

3 MR. NEWMAN: I'm showing the witness
4 Plaintiff's Exhibit No. 5.

5 BY MR. NEWMAN:

6 Q Do you see the bottles on the table?

7 A Yes, I did.

8 Q Okay. Did you put those bottles
9 there?

10 A No, I don't put the table.

11 Q Do you know how those bottles got
12 there?

13 A Well, they get them from those guys
14 who -- one of them is inside in this cafe, one of
15 them is here sit down.

16 Q So when did you find out how they got
17 the bottles.

18 A Well, I find out I was in the first
19 floor, I find out and I tell them to remove, but
20 and also it was very hard to claim, because it's
21 inside in our premises, right in the door.

22 Q So let's explore that for a second.

1 You said you were upstairs. Upstairs where?

2 A First floor, one more floor.

3 Q Now, was that before or after? Did
4 you see those bottles before or after
5 Investigator Puente came?

6 A When -- I saw after.

7 Q Okay. And when you went downstairs,
8 what did you say to them?

9 A I tell those guys to move the beer,
10 but even though I don't see the violation on
11 that, because it was inside my door. If he see
12 that front door is right there, how to get
13 downstairs.

14 So that cafe is ours, okay, they are
15 not in the street.

16 Q Okay.

17 A And the side -- no, they not the
18 sidewalk cafe. It's inside the cafe.

19 Q Okay. You have an outdoor -- the cafe
20 you are referencing is the outdoor cafe?

21 A Yes.

22 Q Okay. And what's the name of that?

1 A The name?

2 Q Yeah, or do you just call it outdoor
3 cafe?

4 A Outdoor cafe, that's Green Island
5 Cafe.

6 Q All right. Do you have a license to
7 serve or -- to serve alcohol or for alcohol to be
8 consumed in the cafe?

9 A Yes, I have license to serve alcohol
10 until 2:00. After 2:00, I shut down.

11 Q In the cafe?

12 A Yes.

13 Q All right. Do you serve alcohol in
14 that cafe?

15 A Yes, I do. I serve alcohol. I serve
16 food.

17 Q Okay. Do you have a bar in that cafe?

18 A No bar.

19 Q All right. Do you have a restaurant
20 in the cafe?

21 A I have table and chair, yes.

22 Q Do you have a kitchen in the cafe?

1 A Not in the cafe.

2 Q Okay. About how many chairs do you
3 have there or how many table and chairs?

4 A I have four tables and eight -- six or
5 eight chairs.

6 Q Okay.

7 MR. NEWMAN: Is it possible to have
8 this marked as Respondent's Exhibit No. 1?

9 CHAIRPERSON ANDERSON: Have you shown
10 it to counsel?

11 MS. KRUPKE: I'm going to object to
12 the introduction of any documentary evidence that
13 has not been shown to the Government. Again, we
14 provided our exhibit list and our witness list to
15 opposing counsel a week ago and although opposing
16 counsel claims ignorance of this, he did not
17 respond any courtesy to that email, so I object.

18 CHAIRPERSON ANDERSON: All right.
19 Your objection is noted, Ms. Krupke.

20 MR. NEWMAN: If I may just respond
21 very quickly?

22 CHAIRPERSON ANDERSON: Well, we have

1 already had this conversation and I'm not quite
2 sure what other response you can give that you
3 did not give earlier in the afternoon, so can you
4 -- if you are going to introduce this into
5 evidence, well, if you are going to move it into
6 evidence, then at some point the Board needs to
7 get a copy of it.

8 But you can go ahead. I don't know
9 maybe if you have extra copies for us to look at
10 while you are -- while the witness is and then if
11 you want to move it into evidence, depending on
12 did -- Ms. Krupke can also object, but I don't
13 know what the document is. And I don't know the
14 purpose of it.

15 MS. KRUPKE: Do you have a copy for me
16 to keep?

17 CHAIRPERSON ANDERSON: Do you have a
18 copy for the Board to look at?

19 MEMBER SHORT: He didn't hear you.

20 CHAIRPERSON ANDERSON: It would be
21 nice if the Board has a copy. You can give it to
22 someone. Someone will pick it up from you over

1 there. So at least we will have something to
2 look at while you are -- it's not moved. It's
3 not -- there is no motion to move it into
4 evidence. It's just at the moment --

5 MR. NEWMAN: All right.

6 BY MR. NEWMAN:

7 Q Do you recognize this picture?

8 A Yes, I do.

9 Q What is it?

10 A This is the girl going downstairs in
11 the basement. This is the steps going to the
12 main entrance.

13 (Whereupon, the above-
14 referred to document was
15 marked as Licensee Exhibit
16 No. 1 for identification.)

17 BY MR. NEWMAN:

18 Q Okay. Is this a fair and accurate
19 representation of -- sorry. Where is that
20 picture taken at?

21 A I take the picture in the front.

22 Q Of what?

1 A Of the 2327 18th Street, N.W.

2 Q And what is that?

3 A That is Heaven & Hell.

4 Q Okay. Is this a fair and accurate
5 representation of that?

6 A Yes.

7 Q Okay. If you can, just looking at
8 this picture, where would the table have been?

9 A In this left hand side right now. The
10 table has got to be in this area.

11 Q Okay. And is it along the staircase
12 that is there?

13 A All the way here.

14 Q Yes.

15 A And also people come up or drinks come
16 up all the way up here and they come around right
17 here.

18 CHAIRPERSON ANDERSON: Part of the
19 problem that we are having, the witness is
20 testifying here, there and everywhere and outside
21 of you and the witness, no one knows what the
22 witness is testifying to.

1 MR. NEWMAN: All right. Then you know
2 what, we won't use the exhibit.

3 CHAIRPERSON ANDERSON: No. I'm not
4 telling you not to use the exhibit, but I believe
5 in order for the Board or even the Government, I
6 mean, you need to show us -- have the exhibit up
7 and have the witness testify what he is pointing
8 to, because I don't know. All I hear is it is
9 here, it's there and I don't know what it is that
10 -- so maybe you can have him stand up. You can
11 have the document so all that -- everyone can
12 look to see.

13 He needs to show it so all of us can
14 look to see where he is pointing, where here,
15 there and where. So I'll ask you to start over
16 by asking him the questions and have him point in
17 the picture where he is talking, so we can all
18 see.

19 MR. NEWMAN: All right.

20 BY MR. NEWMAN:

21 Q Pointing to that picture, where would
22 the table on August 17th have been?

1 A The table would be in the left hand
2 side right here.

3 Q Show it to both counsel and the Board.
4 Okay.

5 A I'm sorry, yes.

6 Q All right.

7 CHAIRPERSON ANDERSON: All right.
8 Hold on, hold on a minute. I mean, and I
9 apologize for doing this. It is not -- it's
10 either where it is or where. We have Exhibit 4
11 and we have -- and I'm -- and we have Exhibit 4.
12 So you know what, in this particular case, I'm
13 going to -- I'm not going to allow you to,
14 because --

15 MR. NEWMAN: No problem.

16 CHAIRPERSON ANDERSON: -- the purpose
17 that -- where we are going, it's -- we have an
18 exhibit and the reason I'm saying that is because
19 we have an exhibit and it appears that a table is
20 in front of the stairs. So unless you are going
21 to tell us that there is a different set of
22 stairs, I don't want to look at a picture that

1 has a random stairs and you are saying this is
2 where the table would have been when we have a
3 picture that says clearly where the table was.

4 So I don't --

5 MR. NEWMAN: I will withdraw.

6 CHAIRPERSON ANDERSON: All right.

7 MR. NEWMAN: I will withdraw.

8 CHAIRPERSON ANDERSON: All right.

9 MR. NEWMAN: And I was -- it was an
10 effort to make the description easier. Have a
11 seat.

12 CHAIRPERSON ANDERSON: Then if you
13 want -- then use exhibit -- use the exhibit that
14 shows the stairs and where the table is. I mean,
15 if you are trying to say where his property is,
16 but you showed us a picture of the blank stairs
17 to say where the table was supposed to be when we
18 already have a picture that says where the table
19 is. I'm -- we are not that --

20 MR. NEWMAN: But with all due respect,
21 Mr. Chairman --

22 CHAIRPERSON ANDERSON: All right.

1 MR. NEWMAN: And I have already
2 withdrawn that. However, --

3 CHAIRPERSON ANDERSON: All right.

4 MR. NEWMAN: -- the picture, the
5 exhibits that are currently present do not show
6 the depth of the table. And the question is, the
7 question of record is was it on public space and
8 was alcohol permitted to be consumed in that
9 area? The way the picture is being taken, you
10 cannot show the depth of where the table is and
11 what area -- where it is located. So that was my
12 -- that was the only showing of the picture. So
13 I will -- I refrain from --

14 CHAIRPERSON ANDERSON: All right.

15 MR. NEWMAN: -- I've withdrawn the
16 exhibit.

17 CHAIRPERSON ANDERSON: All right.

18 Thank you.

19 MR. NEWMAN: As counsel can explain.

20 CHAIRPERSON ANDERSON: All right.

21 Thank you.

22 BY MR. NEWMAN:

1 Q Mr. Weldemariam or Mehari?

2 A Yes.

3 Q How does alcohol get from your -- from
4 the top of the steps into the cafe?

5 A They get it by the server from Green
6 Island Cafe main door, walking down, make a left.
7 If we're going to the basement, through that
8 cafe. So an example, even my server come with
9 the drinks with the tray, they have to go through
10 that in terms to go to the table.

11 Q Okay. So is it your testimony that
12 the alcohol is brought from Heaven & Hell or
13 Green Island Cafe inside and then brought outside
14 to the cafe?

15 A Correct.

16 Q Okay. Is there any way of getting,
17 any common way of getting from the bar area
18 inside the, what I'm going to call, structure and
19 for reference purposes, the structure is the
20 actual building, not the outside cafe, from the
21 actual structure out to the cafe, other than
22 coming down those steps?

1 A Unless you are going to go back door
2 in the alley, there is no other exits.

3 Q Okay. All right. So when -- is it
4 your understanding that when you were granted the
5 -- you said you were granted a license to serve
6 alcohol --

7 A Yes.

8 Q -- in the cafe?

9 A Yes.

10 Q Okay. Is it your understanding that
11 because the only way alcohol can get into the
12 cafe from the structure was that the license also
13 extended to that immediate walk area?

14 A Correct.

15 Q Okay. In the prior exhibit four,
16 Government's Exhibit 3 that I showed you where
17 the table was, is the table in that walk area
18 from your establishment to the cafe?

19 A From my establishment to the cafe?
20 Yes.

21 Q Okay. And that is the only walkway
22 and the only entranceway to be able to get into

1 the cafe?

2 A Correct.

3 Q Okay.

4 MR. NEWMAN: Sorry for the confusion,
5 Board.

6 CHAIRPERSON ANDERSON: All right.

7 BY MR. NEWMAN:

8 Q Do you recall and to your knowledge
9 did any of your bartenders serve alcohol to the
10 individuals out at the table?

11 A To the table?

12 Q To any of -- to your knowledge, did
13 any of the bartenders serve alcohol to the two
14 individuals at the table?

15 A I believe so.

16 Q Okay. Did they -- were they served at
17 the table? To your knowledge, were they served
18 at the table or did the individuals go to the
19 bar?

20 A They were served at the table and then
21 were coming back to the table.

22 Q Okay. And do you know who those

1 individuals are?

2 A I see them with their face, but I
3 didn't know them personally.

4 Q Okay. Do you know who they were
5 associated with?

6 A Yes, they is there with the event,
7 what is going on there.

8 Q Okay. And again, you were aware of
9 what they were doing outside?

10 A Well, they was checking the tickets,
11 event tickets.

12 Q Okay. At any point in time prior to
13 ABRA showing up, were there any incidents or any
14 altercations at the table?

15 A No. There was not any at all
16 underage, another anything, it was so clean and
17 cut, except the two beer that come from upstairs.

18 Q Okay.

19 A And I believe on that -- at that time
20 I responded this is the property, we pay outside
21 cafe for.

22 Q Okay.

1 A Thank you.

2 Q All right. Do you remember when the
3 Investigator appeared that day, on August 17th?

4 A Yes.

5 Q Okay. Do you -- would you happen to
6 have any idea about what time that was?

7 A It was about 9:20 exactly. I see them
8 across the street. They approached by the MPD.
9 The MPD lead them to us. They come to me.
10 Kevin, there was two of them. It was four
11 officers and then it become 10 officers right in
12 front of the door. We was confused.

13 Q Okay. All right. So you said it was
14 around 9:20 is when you saw them outside?

15 A That's right.

16 Q How do you know that?

17 A Because I checked my time at that
18 time.

19 Q Okay. And was the event still going
20 on at that time?

21 A Yes, it was.

22 Q All right. What time was the event

1 scheduled to end?

2 A 10:00.

3 Q Did it end at 10:00?

4 A Yes.

5 Q All right. What did -- what was the
6 first time that you interacted with the
7 Investigator?

8 A As soon as he get to me at that time.

9 Q Where were you when he got to you?

10 A I seen him across the street and I was
11 in and out working with the establishment. And
12 then when they came to me, I was the first person
13 to meet.

14 Q Did they meet you outside or inside?

15 A They meet by the stairs.

16 Q Okay. So at the entrance?

17 A Yes.

18 Q So he didn't meet you upstairs on the
19 second floor?

20 A No. We went there together.

21 Q You went in together?

22 A Second floor, yes.

1 Q Okay. What did he say to you as he
2 approached you or as he met -- as you and he met?

3 A It was so nice, polite. Are you aware
4 about this? And I say I'm aware they consume the
5 beer, but it's not in the street. It's inside
6 the cafe. That was my argument to his argument
7 point.

8 Q Okay.

9 A Even as well as the MPD.

10 Q Okay.

11 A Okay. Even the prove that they ask me
12 this is the table out here, it's not supposed to
13 be one. This is the exit of the place. If I
14 want to go down to the basement, I can't. We
15 going through here. And this is not in the
16 street. In the street, you're right, but inside
17 my premise, I'm paying for it.

18 Q And did you tell the police and Mr.
19 Puente that?

20 A Yes, I did.

21 Q And what was their response?

22 A Their response was it's not supposed

1 to be there, but I don't tear down. I worry
2 about how to set up the cafe. In the cafe when I
3 have the permit, there is a drawing by DCRA. So
4 that for -- I cannot over lift the beer from the
5 sky or from different than the sales.

6 Q Okay.

7 A If I come to the sales, I have come to
8 front door where is my cafe.

9 Q All right. Did you -- you said you
10 had security scheduled for the event, correct?

11 A Whenever -- yes, I do.

12 Q Okay. When were -- and there was only
13 one person --

14 A One person.

15 Q -- at that time? When did the -- did
16 any additional security come?

17 A There was -- a little between -- it
18 was about 9:45 he came, yeah.

19 Q Okay. Do you know who it was?

20 A Mike. Daray, I'm sorry. Daray.

21 Q Daray?

22 A Yeah.

1 Q Okay. When did the next security
2 person -- sorry, did any additional security
3 come?

4 A JJ come 11:10.

5 Q Okay. And did -- were there -- how
6 many security people came that night?

7 A That night come four that night.

8 Q Okay. When did the other two security
9 individuals come? You already said for Mike, JJ
10 and Daray.

11 A They, the other two, they come 11:00,
12 11:30, I believe.

13 Q Okay. And again, why did they not
14 come until -- the four not come until 10:00?

15 A Good question. Because they not there
16 to watch the building, they there to serve the
17 public, to keep an eye, safety and regulation.
18 That's why I want them there. There was nobody
19 in that place at that time.

20 Q Okay.

21 A It was too early.

22 Q All right. So is it your belief that

1 in -- are you familiar with -- do you have a
2 security plan?

3 A Yes, I do. I have a copy of it.

4 Q Okay. Have you read it?

5 A I read it. I read it with Perry as
6 well.

7 Q Okay. And what is the purpose of the
8 security plan?

9 A Well, the security plan for safety and
10 aggression, matter of checking the ID, no serving
11 minor, not letting a drunk person have alcohol or
12 whatever. All these kind of safeties in relation
13 with that.

14 Q At what hours do you believe that --
15 well, sorry. Did you sign the security plan?

16 A Yes, I do.

17 Q Okay. Do you remember when you signed
18 the security plan?

19 A Way back. It's been so long, so many
20 years. Like in 2000 --

21 MR. NEWMAN: I would like to show
22 Defense or Government Exhibit 8.

1 BY MR. NEWMAN:

2 Q Do you recognize -- see the date on
3 the top of that security plan?

4 A Yes, 2010.

5 Q Do you recall when, about when you
6 agreed to the security plan?

7 A Yes, I do.

8 Q And when was that?

9 A It was 2010.

10 Q Okay. When you agreed to the security
11 plan --

12 MR. NEWMAN: Well, strike that.

13 BY MR. NEWMAN:

14 Q What is your belief about when the
15 security plan applies?

16 A Could you repeat that for me, please,
17 sir?

18 Q When do you believe the security plan
19 applies to the operation of your club?

20 A Before I signed, we used to have one
21 voluntary agreement, 2001. I do have one
22 signature for that. And after all they revise

1 again, they come in with new security plan,
2 again, I sign it. That was 2001 and 2010 again.

3 Q What hours do you believe that the
4 security plan applies to?

5 A Well, in our plan was any event we
6 have with activity if it's a lot of people, you
7 have to get security. And if it's dinner hours,
8 you don't need security. You can have them do ID
9 check, check the servers. After 10:00, you've
10 got to have security.

11 Q All right.

12 A Or going to complain.

13 Q So is it your testimony that during
14 the dinner hours, you didn't need to have
15 security?

16 A No.

17 Q And that during -- when the club is in
18 effect, you need to have security?

19 A Yes.

20 Q Do you, in fact, have security when
21 the club is in effect?

22 A Yes.

1 Q You heard prior testimony about
2 renting out your facility or promoters taking
3 over your facility. Has that ever occurred?

4 A No. I never rented my facility to
5 anyone.

6 Q Okay.

7 A I operate myself.

8 Q When somebody is there having an
9 event, how is that run?

10 A Well, the event is different between
11 my own hours, serving my food, serving my drinks,
12 that's separate.

13 Q Okay. But how -- who runs that?

14 A Well, whenever they want to have the
15 live band or anything, activity, they got their
16 own things outside of my place.

17 Q So do they come to you and do you
18 provide security for the band?

19 A Always have provided. Who else are
20 going to do it?

21 Q Do you serve the band drinks?

22 A Yes, I do.

1 Q All right. Do you ensure the noise
2 level in the establishment?

3 A Correct. Yes, I do.

4 Q Okay. Can -- are you always there or
5 one of the owners there when an event is going
6 on?

7 A One of us is there.

8 Q Okay. During the -- while it is
9 operating, do you have a room or do you have
10 cameras in your facility?

11 A In every event, every front door, even
12 across the street, inside/out, we have security
13 camera.

14 Q Okay.

15 A All access 24/7.

16 Q Who accesses -- I mean, who can look
17 at those videos?

18 A Carlos. I have him in place. His
19 name is Carlos.

20 Q Okay. And during the day or during
21 when the establishment is open, does anybody
22 review the cameras in real time?

1 A Yes, they do.

2 Q Who?

3 A We have MPD. We have them so many
4 times, something happen 18th Street in Adams
5 Morgan, we come up there and they review. Some
6 of them they found not belong to us. So --

7 Q Does anybody from your staff or any of
8 the owners look at the cameras as -- during the
9 same time when the establishment is open?

10 A Anything happen, my wife just sit
11 there in the camera room most of the time. She
12 see what any activity is going on.

13 Q And if she notices something going on,
14 what does she do about it?

15 A She come and tell us out front or call
16 me on the phone, telling security to get over
17 there.

18 Q Okay. Have you ever given anyone
19 permission to take alcohol off of your permitted
20 premises?

21 A Never.

22 Q Have you ever advised any of your

1 employees or contractors that it's okay for them
2 to leave the property with alcohol?

3 A No. That's why we are very strict on
4 that.

5 Q Okay. Earlier you heard the
6 Investigator talk about a customer come
7 downstairs with alcohol in their hand while you
8 were talking to him. Do you recall that?

9 A That is wrong. That is false
10 information, because if any, it would be on the
11 camera in front of my door across the street, in
12 the street from my end of my building to the
13 beginning of my building I have a camera set up
14 outside that cafe and everything.

15 Nobody would go with a drink outside
16 the premises. Whether I give attention, whether
17 I give my attention, it will never be there. And
18 that's false information.

19 Q So --

20 A It's not from the -- our end, it comes
21 from MPD, that's a setup.

22 Q So it's your testimony that no one

1 ever walked out the door, a woman didn't walk out
2 the door with a beverage?

3 A That's the most aware job we do in
4 that place.

5 Q All right. When you were downstairs
6 and he was talking to you and your back was to
7 the door, did you see -- did anybody say there is
8 a person with alcohol or go get the person with
9 alcohol?

10 A I'm very aware as a business person.
11 I might have only two eyes, but I have six eyes
12 in myself. I can see everywhere. It's attention
13 how you focus on your business. That's how I
14 look at it.

15 Q All right. All right. I want to turn
16 your attention to November 11th. Do you recall
17 that? It was Sunday, November 11, do you recall
18 that day?

19 A Yes, I do.

20 Q Okay. Where were you that evening?

21 A I was about at the same place on the
22 first floor. I was about to close it. Someone

1 walk in and actually insisted to have a drink. I
2 say I'm closing. Come on, we came from all the
3 way from Maryland, was distracted and he jumped
4 to the TV remote control trying to play music on
5 his own. They were setting up the music and I
6 said, sir, let me do something first.

7 Then I tried to help him. I have seen
8 his face before, but he was not, you know, he was
9 just keep pushing me to do things out of my way.

10 Q Did you have security --

11 A No, I don't.

12 Q -- on the premises at that time of
13 night?

14 A No, I don't.

15 Q Okay. How many people other than you
16 were in the --

17 A There was one guy --

18 Q -- restaurant or bar?

19 A -- that has a glass of wine and his
20 girlfriend and him.

21 Q Okay. And you said you were about to
22 close down, why were you getting ready to close?

1 A Because there was nobody up there and
2 I cannot stay there to 6:00 with nobody, that's
3 why I didn't have any people, because I could not
4 even stay, because there is no business.

5 Q Okay. Do you acknowledge and do you
6 admit that you served the chemical cleaning fluid
7 in a drink?

8 A Well, I served his girlfriend and I
9 was serving him. He asked me Long Island Iced
10 Tea. I was looking for sour grapes or -- because
11 I was closing up everything, all the stuff we
12 were putting in the fridge in the kitchen.

13 So it was an honest mistake. I don't
14 know how it get there, but it looks like sour mix
15 as well and I did it. So the guy was like shit
16 and he tested and I grab it and I test it, I spit
17 on the floor, he spit on the floor and that was
18 it. And he tried to make chaos and all that
19 stuff. I said well, I'm sorry, sir, that this is
20 an honest mistake and I made a mistake. And I
21 admit that mistake.

22 Q Okay. Did you intentionally try to

1 poison --

2 A No.

3 Q First of all, do you know him?

4 A I seen him before. There is no way I
5 can poison somebody. The customer comes to spend
6 money at my bar. How now that it could be, I
7 have to have a crime in my own bar when people
8 try and support me.

9 Q Okay.

10 A Does that make sense?

11 Q Do you know how that cleaning fluid
12 got there?

13 A I know a couple of companies I call
14 for fixing the beer cooler, but I don't know how
15 it get there. I cannot witness. That's why --

16 Q Okay.

17 A -- I can't say nothing.

18 Q Did you call 911 --

19 A Yes, I do.

20 Q Okay.

21 A As soon as happen, I did call 911.

22 Q Did you offer to call an ambulance for

1 him?

2 A I offer ambulance. I have a witness
3 for that. I offer tell the doctor whatever he
4 needs. There was a police with me. MPD was with
5 me. I offer everything for him with respect.

6 Q Did you fill out an incident report?

7 A I do have incident report, a piece of
8 paper that I wrote, but when I say give them to
9 MPD, even asked the MPD officer they want me to
10 do anything? They say well, he doesn't want to
11 take the ambulance. He didn't want to take no
12 report. He didn't need to, that's what I get
13 from them.

14 Q Okay. Do your security officers fill
15 out incident reports?

16 A Yes, they do.

17 Q Okay.

18 A If any.

19 Q And what do you use them for?

20 A Well, for evidence, record, but never
21 happen in that place for a long time.

22 Q Okay.

1 A Years and years ago.

2 Q All right. Do you review the reports
3 when they are done, the incident reports?

4 A If they done it, will communicate with
5 Perry and see what happened.

6 Q Okay.

7 A If it's necessary, we get it now, we
8 tell them.

9 Q All right.

10 A We also compare with the police
11 officer. Everything what we do here, anything
12 happen in that place, where that drunk person
13 from outside, we got to deal with the MPD. We
14 help and take off. It's in record and also on
15 the tape.

16 Q On the -- in the security plan, do you
17 recall who is responsible for filling out an
18 incident report?

19 A Perry as the head of security.

20 Q Was Perry there that night?

21 A No, he was not there that night.

22 Q Okay.

1 A That's why I have the notes taken out.

2 Q Did you check the gentleman's ID
3 before you served him a drink?

4 A Yes, I do.

5 Q Have you ever been shut down for a
6 health code violation?

7 A Never.

8 Q And were you -- okay.

9 MR. NEWMAN: No further questions.

10 CHAIRPERSON ANDERSON: Your witness,
11 Ms. Krupke.

12 CROSS-EXAMINATION

13 BY MS. KRUPKE:

14 Q Mr. Weldemariam, you didn't fill out
15 an incident report on the night of November 11,
16 2018, correct?

17 A I take notes of it. I asked the
18 officer if he need a report from us and he said I
19 am here with you, you didn't need to. That's
20 what I did.

21 Q So it's your testimony that the reason
22 you didn't fill out an incident report is because

1 the MPD officer didn't ask you to?

2 A No. I asked him do you need my
3 incident report? But he say I am here with you,
4 that's what has happened and he is claiming he
5 admitted, so he didn't need to.

6 Q Is it your testimony here today that
7 an incident report from November 11, 2018 exists
8 or does not exist?

9 A Could you repeat that again?

10 Q Is there an incident report from
11 November 11, 2018?

12 A Um-hum.

13 Q And where is it?

14 A It could be my office.

15 Q Did the ABRA --

16 A It's one of --

17 Q -- Investigator request an incident
18 report?

19 A Nobody asked me for that.

20 Q Never?

21 A Never.

22 Q Do you have an incident log? Do you

1 have an incident log that keeps all of these
2 incident reports together?

3 A You see documents I come in here with.

4 Q Okay. Do you have a binder or a
5 folder where you keep all of these incident
6 reports?

7 A Yes, I do.

8 Q You don't have that here today though?

9 A I don't have it.

10 Q And you have never provided the
11 incident report from November 11, 2018 to ABRA?

12 A Nobody asked me from ABRA. If they
13 do, I will do it.

14 Q You said during your testimony that
15 nothing had happened at your establishment for a
16 long time.

17 A Yes.

18 Q Is that right?

19 A Yes.

20 Q So is it your testimony that you
21 didn't need to fill out incident reports for a
22 long time, because nothing had happened for a

1 long time. Is that right?

2 A Not only that, when there is nothing
3 happen, it's nothing happen. When something
4 happen, there is a report to protect me more than
5 anybody else.

6 Q Okay.

7 A I'm very aware.

8 Q It protects you.

9 A Thank you. That's my witness.

10 Q So who filled out the incident report
11 for November 11, 2018, that you claim exists?

12 A I have the notes of it. We are trying
13 to repeat the same question again and again. I'm
14 not going to the circles. My answer was to you I
15 asked -- people knows I tell officer do you need
16 my report? The officer says no. I am here with
17 you. I am listening to everything. What do you
18 need for? That's what he told me.

19 Q So your testimony is that you made
20 notes of the event?

21 A I made note at that time. I asked him
22 the same thing when I was making the note. Did

1 he need this, my report and he say no. He asked
2 the guy in front of me, do you want to go to
3 doctor, you want an ambulance? You want to do
4 this? He refusing. There is no incident here.

5 Q On August 17, 2018, the individuals
6 who were outside, were they supposed to be
7 checking IDs?

8 A Repeating again. They supposed to
9 check the ticket sale from Eventbrite. We
10 supposed to check the ID. I hope you understand
11 exactly, because you are asking me Bill, he was
12 checking ID as well.

13 Q Okay. I'm sorry. Who was checking
14 IDs?

15 A Bill.

16 Q And that was the entire night?

17 A No not entire night. From the time
18 the show was there, 8:00 to 10:00. After that,
19 it's over.

20 Q And so from 8:00 to 10:00, did Bill
21 have any other responsibilities other than
22 checking the IDs?

1 A Bill?

2 Q Yes.

3 A Bill is -- doesn't help others.

4 Others were supposed to have -- he is independent
5 marketing person. Okay? And I tell him you is
6 here, why don't you sit down and help me? I was
7 checking everything out there and that's what
8 happened.

9 Q Does he interact with the band at all?

10 A No. He can consort with the band.
11 This is a good band, this is good record they
12 have, this -- and you better have them or give
13 them opportunity. That is his job. Sometimes I
14 accept it, sometimes I refuse it.

15 Q Okay. Does he help the band with
16 parking?

17 A No, no, no.

18 Q No?

19 A No.

20 Q He doesn't help the band get any
21 drinks or anything?

22 A No.

1 Q No. The table that was set up
2 outside, it's your testimony that that's part of
3 the sidewalk cafe? Is that right?

4 A The table was set out there for them
5 to provide -- check the Eventbrite tickets.
6 Okay. The table is not supposed to be there
7 exactly, supposed to be -- they pull from the
8 sidewalk cafe to help them up here. They don't
9 come in.

10 Q So is the sidewalk cafe to the --
11 well, I guess depending on where we are facing,
12 but so if you are facing out of your
13 establishment and the table is sitting here, is
14 the sidewalk cafe to the right?

15 A The sidewalk cafe, the building sits
16 the way I sit, sidewalk cafe is my right hand.
17 Okay. This isn't -- this place is in my left
18 hand. The basement entrance is right in the
19 middle.

20 Q So is the sidewalk cafe set up in
21 front of the stairs that exit your establishment?

22 A Yes.

1 Q So you normally have patrons that are
2 sitting in tables right in front of this area?

3 A Not that sitting at a table, but they
4 can get through that to the cafe.

5 Q To the cafe?

6 A That's outside, yes.

7 Q Okay. Great. Thank you.

8 A They got a drink in their hand, they
9 got to get to the cafe left and right.

10 Q Okay. To the cafe to the left or
11 right. Great. Thank you.

12 A Thank you.

13 Q Was the sidewalk cafe set up that
14 night?

15 A Hum?

16 Q Was the sidewalk cafe set up that
17 night?

18 A It's set up, yes.

19 Q Yes. So the tables and chairs, those
20 are -- those were all set up on August 17th?

21 A Yes.

22 Q Okay. And so where in your security

1 plan does it mention dinner hours?

2 A Could you repeat that again?

3 Q Where in your security plan does it
4 mention dinner hours?

5 A In my security plan, doesn't specify
6 dinner hours. According to our system, dinner
7 hours is dinner hours. Music, entertainment and
8 all of that starts late. So we -- some people
9 with dinner was checking ID. At the most, 20,
10 30, 40 people.

11 Q So --

12 A So there is 100.

13 Q During dinner hours, you don't check
14 IDs at the door, right?

15 A We check IDs at the table and the
16 bartender at the bar as well, that's how we do
17 it.

18 Q Okay. So for an event that took place
19 under your description of dinner hours, say would
20 typically you have someone at the door or would
21 it just be --

22 A We put --

1 Q -- at the table?

2 A -- our security, okay, when we have
3 events or something going on. We clear them
4 ahead or they come to us and do their job.

5 MS. KRUPKE: Sorry, indulgence,
6 please.

7 BY MS. KRUPKE:

8 Q Mr. Weldemariam?

9 A Yes?

10 Q What time do you believe that your
11 security plan applies to your establishment?

12 A 10:00.

13 Q And where in your security plan does
14 it say that the security plan starts at 10:00?

15 A In the security plan, we know we open
16 the doors 5:00, so there is nobody there. And
17 the security plan says this time, this time, it
18 doesn't say at all. It doesn't specify, but
19 according to our business how to run, it's our
20 obligation to do the right.

21 Q Okay. So you agree that the security
22 plan doesn't say in any way that the plan starts

1 at 10:00, correct?

2 A Well, the security plan is for
3 security and safety, it's requirement. When they
4 need it, how to use it is like we gave a new
5 security plan. We don't have any activities.
6 It's the same thing also, dinner hours we don't
7 need security. But if it does say, I might
8 misread it.

9 Q Do the provisions related to spotting
10 fake IDs apply at all hours or do those only
11 apply after 10:00?

12 A No. We are all aware as soon as we
13 open the door, we have the books check fake ID,
14 computer ID, everything ID. We specific on this.
15 We are very aware and I don't believe in
16 Washington we have same thing, what we do, they
17 can do. And I believe myself on that.

18 Q You agree that there were no security
19 personnel on hand during the incident of November
20 11, 2018?

21 A No.

22 Q You don't agree or you do?

1 A No. There was no security at all.

2 Q Earlier you stated that the ABRA
3 Investigator didn't meet you on the second floor
4 of your establishment. You said that they met
5 you at the table outside. Is that correct?

6 A On the stairs up second floor level.

7 Q So you had been stationed --

8 A And like there is laid out the floor,
9 that when they come, I give -- from there I went
10 to the steps to meet them.

11 Q So you saw the table that was sitting
12 there, correct?

13 A I saw the table on the left hand and
14 the right hand side, yes, but not in the stairs
15 when I come down.

16 Q Where were you stationed before the
17 ABRA Investigators arrived?

18 A I was in -- there is stairs from the
19 floor, so I go up the stairs and there is another
20 level and a door.

21 Q Inside the door?

22 A Outside the door.

1 Q Okay. So you were outside the
2 establishment?

3 A Outside the -- it is the stairs going
4 up. I can point in the picture if you want me
5 to. You have the exhibit picture, right?

6 Q Sure. I'll show you Exhibit 3.

7 A Show, please.

8 MS. KRUPKE: Do you need to stand up
9 so that everybody can see.

10 THE WITNESS: Okay. No problem.

11 MS. KRUPKE: All right.

12 BY MS. KRUPKE:

13 Q Can you point to where you were
14 stationed?

15 A When?

16 Q When the ABRA Investigators arrived.

17 A I was here, this level. This is the
18 level, the stairs. And when they come, I come
19 from here to see them.

20 MS. KRUPKE: No further questions, at
21 this time.

22 CHAIRPERSON ANDERSON: Any questions

1 by any of the Board Members?

2 MEMBER SHORT: Yes, I have one.

3 CHAIRPERSON ANDERSON: Huh, go ahead,
4 Mr. Short.

5 MEMBER SHORT: Good afternoon, Mr.
6 Weldemariam. Good afternoon, Mr. Weldemariam.

7 THE WITNESS: Good afternoon, sir.

8 MEMBER SHORT: Your sidewalk cafe
9 seems to be in question today. So is your
10 sidewalk cafe behind the wrought iron fence?

11 THE WITNESS: Behind what?

12 MEMBER SHORT: Is it behind the
13 wrought iron fence? Your permit to have a
14 sidewalk cafe. The area, is it behind the
15 wrought iron fence in front of your property?

16 THE WITNESS: I don't get it exactly.

17 MEMBER SHORT: Okay. Do you have a
18 fence? Do you have a wrought iron fence in front
19 of your building to the right of your stairway?
20 Is there a fence there?

21 THE WITNESS: Yes, I do. I have
22 fence, very long fence.

1 MEMBER SHORT: Okay.

2 THE WITNESS: Like 8 -- actually, 7.5
3 feet long.

4 MEMBER SHORT: Okay. Great.

5 THE WITNESS: People cannot jump over
6 there and all that stuff.

7 MEMBER SHORT: I got it. So now what
8 is behind that fence?

9 THE WITNESS: What --

10 MEMBER SHORT: What is behind the
11 fence?

12 THE WITNESS: The cafe and the front
13 is sidewalk cafe. I mean, sidewalk outside.

14 MEMBER SHORT: So what is -- what area
15 is -- did DCRA give you permission or the city
16 give you permission to use?

17 THE WITNESS: Inside the --

18 MEMBER SHORT: Inside of the fence?

19 THE WITNESS: -- ground to the wall,
20 to the building.

21 MEMBER SHORT: So inside of the fence
22 to the wall?

1 THE WITNESS: Yes.

2 MEMBER SHORT: Okay. Let's look at
3 Exhibit No. 5 again, the picture. Can he get --

4 MS. KRUPKE: Is it Exhibit 3 that you
5 are requesting?

6 CHAIRPERSON ANDERSON: 3.

7 MEMBER SHORT: Is it Exhibit 3? Okay.
8 All right. Exhibit 3.

9 MS. KRUPKE: I'm approaching the
10 witness with Exhibit 3.

11 MEMBER SHORT: Yes, okay, yes. Now,
12 would you say that the table sitting there is
13 behind the fence or in front of the fence?

14 THE WITNESS: Behind the fence. This
15 is --

16 MEMBER SHORT: It's behind the fence?

17 THE WITNESS: -- yes, sir.

18 MEMBER SHORT: Yes.

19 THE WITNESS: This is the fence and
20 you can see how tall it is. This is the floor
21 from the seating, sidewalk cafe. Is that on the
22 sidewalk? This is from here inside is the cafe.

1 MEMBER SHORT: Who --

2 THE WITNESS: Sit down inside the
3 cafe.

4 MEMBER SHORT: -- does the sidewalk
5 belong to?

6 THE WITNESS: Huh?

7 MEMBER SHORT: Who does the sidewalk
8 belong to?

9 THE WITNESS: It belong to the
10 Government.

11 MEMBER SHORT: It belongs to the city?

12 THE WITNESS: Yes.

13 MEMBER SHORT: Well, there is a table
14 sitting on the sidewalk?

15 THE WITNESS: No, on my own cafe, sir.

16 MEMBER SHORT: Well, let me ask you
17 another question and I think we have stated this
18 before. The stairways belong to you, correct?

19 THE WITNESS: Yes.

20 MEMBER SHORT: When you come down the
21 stairways, where does your property end and where
22 does the City Government start?

1 THE WITNESS: Well, the cafe I point
2 from this end to this end of the building.

3 MEMBER SHORT: So we did establish
4 there is a fence, correct?

5 THE WITNESS: The fence is right here,
6 yes.

7 MEMBER SHORT: Okay. And according to
8 the city code and law, the only way that -- the
9 cafe would have to be behind the fence.

10 THE WITNESS: Correct.

11 MEMBER SHORT: So where is that table
12 sitting?

13 THE WITNESS: The table is sitting
14 here. It is inside my property.

15 MEMBER SHORT: Let me ask you a
16 question. You had 100 people inside on the 11th
17 of August. No, when was it?

18 MR. NEWMAN: August 17th.

19 MEMBER SHORT: August 17, 2018, you
20 had -- witnesses have said there was 120 people
21 inside, correct? So now if they all have to come
22 out of there in a hurry because of fire or some

1 other incident, how are they going to get down
2 those steps with the table sitting there?

3 THE WITNESS: Your Honor, there is an
4 access here with all those steps.

5 MEMBER SHORT: I understand that, but
6 let me clear up the question a little clearer.

7 THE WITNESS: Okay.

8 MEMBER SHORT: You are looking at the
9 picture and I'm looking at the picture.

10 THE WITNESS: Yes, sir.

11 MEMBER SHORT: Your steps is called an
12 egress from your building, correct?

13 THE WITNESS: Yes.

14 MEMBER SHORT: And egresses have to be
15 clear and unobstructed according to the law,
16 correct?

17 THE WITNESS: Correct.

18 MEMBER SHORT: So with this table, is
19 it clear or is it obstructing? You're looking at
20 the picture.

21 THE WITNESS: I look at the picture.
22 There is basement here close to stairs.

1 MEMBER SHORT: Yes, sir.

2 THE WITNESS: But that is close.

3 MEMBER SHORT: Mr. Weldemariam, you
4 don't want to answer my question.

5 THE WITNESS: I am answering your
6 question.

7 MEMBER SHORT: I have asked you --
8 okay. I'm asking you a question. Is that table
9 obstructing the means of egress from your
10 building?

11 THE WITNESS: No.

12 MEMBER SHORT: No further questions,
13 Mr. Chair.

14 CHAIRPERSON ANDERSON: Well, let me
15 ask you a question, Mr. Weldemariam.

16 THE WITNESS: Yes, sir.

17 CHAIRPERSON ANDERSON: So look at
18 Exhibit 3 and Exhibit 1, 2 and 3. Okay? Are
19 these folks sitting in your sidewalk cafe?

20 THE WITNESS: Repeat that to me.

21 CHAIRPERSON ANDERSON: Are the
22 individuals who are in Exhibit 1, 2 and 3, are

1 they sitting in your sidewalk cafe? Sitting.

2 THE WITNESS: Kitchen?

3 CHAIRPERSON ANDERSON: Sitting.

4 THE WITNESS: Seating, yes, there is
5 seating.

6 CHAIRPERSON ANDERSON: No, I said but
7 are these folks sitting in your sidewalk cafe?

8 THE WITNESS: No, they are not.

9 CHAIRPERSON ANDERSON: Well, don't you
10 know that your settlement agreement says that all
11 folks need to be sitting in your sidewalk cafe?

12 THE WITNESS: My settlement agreement,
13 yes, says --

14 CHAIRPERSON ANDERSON: It says that
15 they need -- that all folks need to be -- how
16 many people can go -- how many people can fit in
17 your sidewalk cafe?

18 THE WITNESS: According the paper was
19 12.

20 CHAIRPERSON ANDERSON: 12.

21 THE WITNESS: That can be seated, only
22 eight people.

1 CHAIRPERSON ANDERSON: And it says
2 that they have to be seated. Is that correct?

3 THE WITNESS: Correct.

4 CHAIRPERSON ANDERSON: Are these folks
5 there seated in the sidewalk cafe?

6 THE WITNESS: They are not, but they
7 are sitting in my front door, the basement door.

8 CHAIRPERSON ANDERSON: Well --

9 THE WITNESS: The basement is closed.

10 CHAIRPERSON ANDERSON: -- so if they
11 are seated in the -- in front of the basement
12 door --

13 THE WITNESS: Yes,

14 CHAIRPERSON ANDERSON: -- is that a
15 part of the sidewalk cafe?

16 THE WITNESS: It is a part. How are
17 you going to get to sidewalk cafe other than that
18 part?

19 CHAIRPERSON ANDERSON: Well, the
20 reason I'm confused, okay, the picture I'm
21 looking at irrespective of how you look at it, it
22 appears to me that this table is sitting in front

1 of the steps. Isn't that correct?

2 THE WITNESS: Your Honor, with all
3 respect, the picture they been taken different,
4 this way, it will show up this way, if it's this
5 way then. But this particular table is sit down
6 in front of door goes to the basement.

7 CHAIRPERSON ANDERSON: And so it is --

8 THE WITNESS: There is an access here.

9 CHAIRPERSON ANDERSON: All right.

10 THE WITNESS: Okay.

11 CHAIRPERSON ANDERSON: All right. So
12 it's sitting -- all right. It's sitting in front
13 of the door in front of the steps?

14 THE WITNESS: Yes.

15 CHAIRPERSON ANDERSON: And you also
16 testified that your sidewalk cafe is enclosed.
17 Is that correct?

18 THE WITNESS: Enclosed because I don't
19 want people jump --

20 CHAIRPERSON ANDERSON: Right.

21 THE WITNESS: -- from that outside to
22 inside.

1 CHAIRPERSON ANDERSON: So --

2 THE WITNESS: That's the purpose.

3 CHAIRPERSON ANDERSON: -- it's
4 enclosed. So therefore, you are saying that this
5 table is sitting behind the enclosure. Is that
6 what you are saying?

7 THE WITNESS: No, I'm not saying that.

8 CHAIRPERSON ANDERSON: So what are you
9 saying then?

10 THE WITNESS: I'm saying that the
11 enclosure area is very wide open up there.
12 There is nobody, maybe two people in there. This
13 is the basement close to door, which as the
14 basement at that time was closed, so they have
15 this table to check the ID.

16 CHAIRPERSON ANDERSON: Right. But all
17 right. But your sidewalk, is it correct that the
18 sidewalk cafe that you have is an enclosed area?
19 Is that correct?

20 THE WITNESS: Correct.

21 CHAIRPERSON ANDERSON: Are these
22 individuals standing behind the enclosed area?

1 THE WITNESS: No.

2 CHAIRPERSON ANDERSON: All right. All
3 right. Who are these people? Who are these
4 people?

5 THE WITNESS: Those people they
6 checking for the --

7 CHAIRPERSON ANDERSON: Who are they?

8 THE WITNESS: -- ticket.

9 CHAIRPERSON ANDERSON: Who are they?

10 THE WITNESS: They with the band.

11 CHAIRPERSON ANDERSON: I'm sorry?

12 THE WITNESS: They with the band.

13 CHAIRPERSON ANDERSON: So who hired
14 them?

15 THE WITNESS: I don't have it.

16 CHAIRPERSON ANDERSON: So --

17 THE WITNESS: They are musician.

18 CHAIRPERSON ANDERSON: -- they are
19 musicians. So you have -- so you just have --
20 you allow two people to be sitting in front of
21 your establishment collecting tickets?

22 THE WITNESS: Your Honor, they were

1 not sit down there. They would check the ID as
2 well. They have incidentally a beer --

3 CHAIRPERSON ANDERSON: Hold on.

4 THE WITNESS: -- that's the alcohol.

5 CHAIRPERSON ANDERSON: Listen to the
6 question, Mr. Weldemariam.

7 THE WITNESS: Okay. Go ahead.

8 CHAIRPERSON ANDERSON: I'm not trying
9 to trick you.

10 THE WITNESS: Okay.

11 CHAIRPERSON ANDERSON: Who are these
12 people? Let me start over. Who are these two
13 people?

14 THE WITNESS: Individual musicians.

15 CHAIRPERSON ANDERSON: Individual
16 musicians.

17 THE WITNESS: Yes.

18 CHAIRPERSON ANDERSON: They are not
19 employees of yours. Is that correct?

20 THE WITNESS: No, no.

21 CHAIRPERSON ANDERSON: They don't have
22 a legal -- they don't have a formal relationship

1 with you. Is that correct?

2 THE WITNESS: No.

3 CHAIRPERSON ANDERSON: What were they
4 doing in front of your business?

5 THE WITNESS: They was checking the
6 ticket online. They sell ticket online, they
7 were checking them.

8 CHAIRPERSON ANDERSON: So they were
9 checking tickets online.

10 THE WITNESS: Yes, from the phone you
11 show them and they let them in.

12 CHAIRPERSON ANDERSON: All right.

13 MEMBER SILVERSTEIN: Mr. Chairman, if
14 I may interrupt for just a moment? In one minute
15 or so, there is going to be a nationwide test of
16 the Emergency Notification System. No need to
17 panic.

18 CHAIRPERSON ANDERSON: All right. All
19 right. Thank you. Now, how many -- were was
20 security that night?

21 THE WITNESS: There was one security
22 who was inside.

1 CHAIRPERSON ANDERSON: Inside where?

2 THE WITNESS: Inside on second floor.

3 CHAIRPERSON ANDERSON: But doesn't
4 your security plan state that your security is
5 the first -- these are the first -- isn't it
6 correct that your security plan states that the
7 first people -- when someone comes to your
8 business, the first people that they access is
9 the security?

10 THE WITNESS: That's true.

11 CHAIRPERSON ANDERSON: So if the first
12 person that they encounter is your security, why
13 is the security inside the building?

14 THE WITNESS: Okay. Second level we
15 exchange, I'm the one who tell him I'm going to
16 keep an eye over you, check upstairs, make a tour
17 and that's what we supposed to be. He was going
18 on upstairs touring and by the time see
19 everything and come back to me, check the same
20 thing first floor. Then he comes to the place
21 where I resting.

22 CHAIRPERSON ANDERSON: So while you --

1 so who was at the front door then checking IDs?

2 THE WITNESS: I was there for him.

3 CHAIRPERSON ANDERSON: So you were?

4 THE WITNESS: Come back from upstairs,
5 yes. I do this every time I do it, the routine.
6 I sit at front door no matter what hour of
7 business. That's how much I care about my
8 business. I check ID myself. If I'm not there,
9 my wife will stay. It's our business for years
10 to come, not just now.

11 CHAIRPERSON ANDERSON: All right. All
12 right. Ms. Crockett?

13 MEMBER CROCKETT: Thanks. Sir, you
14 stated earlier that Mr. Wiggins was checking ID.

15 THE WITNESS: Um-hum.

16 MEMBER CROCKETT: However, you just
17 stated that you were, in fact, checking ID.

18 THE WITNESS: Well, it's good
19 question. It was a timing issue. Somebody had
20 to be there, it didn't matter who and that was
21 the purpose I asked Mr. Wiggins to help me, he
22 did that and Mike came and was up front and I

1 asked him myself, make sure check upstairs and
2 make a tour and come back and that's what we did.

3 MEMBER CROCKETT: Okay. Your security
4 plan identifies first, second and third lines of
5 defense.

6 THE WITNESS: Yes.

7 MEMBER CROCKETT: During this event on
8 this particular evening of August 17, 2018, the
9 first line of defense would have been the
10 musicians, who are not trained in security
11 protocols. Your second line of defense is Mr.
12 Wiggins.

13 THE WITNESS: Wiggins, yes.

14 MEMBER CROCKETT: Who is also not
15 trained in security protocols.

16 THE WITNESS: Yes, but it's dinner
17 hours activities, it's not a lot of nightclub
18 type. Most people eat and drink, that was the
19 purpose.

20 MEMBER CROCKETT: But during this
21 event, there was live music playing, yes?

22 THE WITNESS: The musician we have was

1 jazz, jazz musician, not rock and roll musician,
2 but that was musician was very low jazz and
3 mellow to provide for dinner.

4 MEMBER CROCKETT: Thank you, sir.

5 THE WITNESS: You're welcome.

6 CHAIRPERSON ANDERSON: Any other
7 questions by any other Board Members? Ms.
8 Krupke, any questions you wish to ask?

9 RE-CROSS-EXAMINATION

10 BY MS. KRUPKE:

11 Q Where was Bill Wiggins when you were
12 checking IDs at the front door?

13 A Bill Wiggins was -- at that time, I
14 give him a break, both of them.

15 Q So he was off doing something else?

16 A Not with -- the time was about to
17 close, but also can he use the bathroom, could be
18 anything and I was there for them.

19 Q What time were you checking IDs at the
20 front door on August 17th?

21 A We were starting about 8:00.

22 Q That's what time you personally were

1 checking IDs?

2 A Yes.

3 Q And what time did you stop checking
4 IDs?

5 A No, I replaced by Bill Wiggins.

6 Q At what time?

7 A About half an hour later.

8 MS. KRUPKE: No further questions.

9 CHAIRPERSON ANDERSON: Mr. Newman, any
10 questions?

11 REDIRECT EXAMINATION

12 BY MR. NEWMAN:

13 Q You testified that the people in the
14 front of the building did not work for you,
15 correct?

16 A No.

17 Q Who did they work for?

18 A They were the musicians. They didn't
19 work with us. They could be musicians.

20 Q So did they work with anybody
21 connected with the event that night?

22 A Yes.

1 Q Did you have a formal relationship
2 with the person who was running that event?

3 A No.

4 Q Did you have any arrangements or
5 agreements with them to run the event under your
6 direction?

7 A Well, I get recommended by Bill
8 Wiggins, the songs there -- because it's very
9 good and nice live music, jazz. And then when I
10 see the demo records, I listen. It was not too
11 loud. It was mellow. I said I okay with that.

12 Q Is this the first time that they had
13 been -- that these events occurred?

14 A In that place yes, they were. They
15 was before that. It was the same people with the
16 -- for -- with this --

17 Q About how many times?

18 A I remember --

19 Q Were they there before?

20 A -- I believe it was two or three times
21 I have record.

22 Q Okay.

1 A They come after six months, seven
2 months, eight months, like that.

3 Q Okay. I want to call your attention
4 to the security plan again. I know everyone has
5 already read the first sentence. I want you to
6 read the second sentence. Just read that out
7 loud, please.

8 A "Security staff as a group is the eyes
9 and the ears of management. The management
10 cannot" --

11 Q No, I'm talking -- that's not the
12 paragraph. The second sentence starting with
13 "The first." Right there.

14 A Okay. "The first impression that
15 customer has of our club is the image."

16 Q You can stop now. Okay. If you can
17 read the highlighted section sentence?

18 A Yeah. Only person allowed in terms
19 into the properties without first paying or
20 discover -- cover or has own name, guest list.

21 Q That's fine. So do you charge a cover
22 during restaurant hours?

1 A No.

2 Q When do you charge a cover?

3 A At 10:00, music hours.

4 Q Is it a distinction between the
5 restaurant and the club?

6 A Of course.

7 Q Has there always been a distinction
8 between the restaurant and the club?

9 A I believe yes, because club is the
10 club. Dinner hours is the dinner hours.

11 Q Okay. And you just read that the
12 statements refer to -- the second sentence refers
13 to the club, correct?

14 A Yes.

15 Q Okay. In terms of the other duties
16 included --

17 A Um-hum.

18 Q -- could you read the second bullet
19 right there?

20 A Yes, I will.

21 Q The part that is highlighted.

22 A Okay. "Maintain awareness of and

1 control club patrons, capacity."

2 Q Okay. So one of the responsibilities
3 that you take from this is that the job is to
4 manage the crowd?

5 A That's true.

6 Q Okay. Who is -- reading this for a
7 second, would you read that highlighted section
8 right there?

9 A Okay.

10 Q Right under the bartenders and the
11 servers.

12 A "The second line of defense for many
13 establishments is bartenders and the servers,
14 alcohol and beverage."

15 Q Right. So do your servers and
16 bartenders check IDs before serving alcohol?

17 A Yes, they do.

18 Q In the section referred to as
19 Evacuation Plans, just read the circle right
20 there.

21 A Okay. "The DJ to turn off" --

22 Q Okay.

1 A -- "the music."

2 Q Do you have a DJ during dinner hours?

3 A No.

4 Q The letter attached to the plan dated
5 February 25th, are you familiar with this letter?

6 A Mr. Simon?

7 Q Susan Mitchell.

8 A Susan Mitchell, yes.

9 Q Are you familiar with her?

10 A At that time, I know about her yes.

11 Q Okay. And was she the Investigator at
12 the time when the claim was prepared?

13 A Yes.

14 Q Okay. Did she question -- did she ask
15 you to clarify who would card someone who is
16 already inside?

17 A Is that what --

18 Q Is that what that sentence says?

19 A Yes.

20 Q Clarify why you would card someone who
21 is already inside?

22 A Yes.

1 Q Okay.

2 A That's right.

3 Q What was your response or what is the
4 response?

5 A If the person was, okay, admitted to
6 the early entry of dinner.

7 Q So what she is asking you, I want to
8 make sure I understand this, is that there
9 wouldn't be somebody already inside that wasn't
10 carded if they came in for dinner. Is that
11 correct?

12 A Yeah, because --

13 Q All right.

14 A -- I have a fantastic, you know. group
15 of people and so most of them we accept them.

16 Q And she asked you to specify the
17 number of inside security staff, what day is
18 mentioned on that -- in that response?

19 A Security of numbers of inside security
20 staff. Okay. Those are two security staff on
21 Friday. Was only function in the -- what is it,
22 monitor?

1 Q Monitor.

2 A To monitor of the three floors.

3 Q Does that say anything about the
4 security staff checking IDs?

5 A No.

6 Q Let me ask you a question and it has
7 been asked, but I'm going to ask it a different
8 way. The security plan as you just testified and
9 read out loud speaks to club.

10 A Yes.

11 Q Have you and is -- how long has Heaven
12 & Hell/Green Island Cafe been open?

13 A 39 years.

14 Q Okay. Have you always had a
15 restaurant section and a club section?

16 A Yes.

17 Q 2010, did you have a separate club
18 from the restaurant?

19 A That was the first floor and second
20 floor, that's all.

21 Q But did you have a separate club or
22 did you have a restaurant function and a club

1 function?

2 A Well, the same thing. The restaurant
3 function until 11:00 with the first floor. If
4 someone has a big party, they want to have a
5 dinner, we set on second floor.

6 Q You didn't answer my question.

7 A Hum?

8 Q Did you have or do you have in 2010 as
9 well as today, do you have a club function that
10 is different and separate from your restaurant
11 function?

12 A Yes, I do.

13 Q Thank you.

14 MR. NEWMAN: No further questions.

15 CHAIRPERSON ANDERSON: All right.

16 MEMBER SILVERSTEIN: He is done.

17 CHAIRPERSON ANDERSON: All right. Mr.

18 Weldemariam?

19 THE WITNESS: Yes.

20 CHAIRPERSON ANDERSON: Thank you for
21 your testimony. You can step down, sir.

22 MR. WELDEMARIAM: Thank you.

1 CHAIRPERSON ANDERSON: Do you rest,
2 sir?

3 MR. NEWMAN: Yes.

4 CHAIRPERSON ANDERSON: Ms. Krupke, are
5 you prepared to make your closing statement?

6 MS. KRUPKE: The District actually
7 requests a brief rebuttal witness.

8 CHAIRPERSON ANDERSON: Okay. And who
9 is the rebuttal witness?

10 MS. KRUPKE: Investigator Kevin
11 Puente.

12 CHAIRPERSON ANDERSON: Sure.
13 Whereupon,

14 INVESTIGATOR KEVIN PUENTE
15 was recalled as a witness by Counsel for the
16 Government, and having been previously duly
17 sworn, resumed the witness stand, was examined
18 and testified as follows:

19 CHAIRPERSON ANDERSON: Now, Mr.
20 Puente, you are still under oath. I don't need
21 to swear you in again.

22 So go ahead, Mr. Puente. Go ahead,

1 Ms. Krupke.

2 REBUTTAL

3 DIRECT EXAMINATION

4 BY MS. KRUPKE:

5 Q Good afternoon, Mr. Puente.

6 A Good afternoon.

7 Q Were you present at all during the
8 questioning of a Mr. Bill Wiggins today?

9 A Yes.

10 Q And did you see what he looked like?

11 A Yes.

12 Q Have you ever seen that individual
13 before?

14 A No.

15 Q Was he present at Green Island/Heaven
16 & Hell on August 17th, to your knowledge?

17 A No, he wasn't.

18 Q When you walked into the door, was he
19 seated at the door checking IDs?

20 A No.

21 Q Was anyone at the door checking IDs?

22 A No.

1 Q And how do you remember that?

2 A I'm usually -- when I walk into an
3 establishment and someone is at the door, I'm
4 going to immediately identify myself and ask to
5 speak to the ABC Manager/owner. No one was
6 there, so I went to the first floor to look for
7 the owner or ABC Manager. I didn't see anyone on
8 the first floor, so I went to the second floor
9 and found the owner on the second floor.

10 MS. KRUPKE: No further questions.

11 CHAIRPERSON ANDERSON: Mr. Newman,
12 your witness.

13 MR. NEWMAN: No questions.

14 MEMBER SHORT: I have.

15 CHAIRPERSON ANDERSON: All right. Go
16 ahead, Mr. Short.

17 MEMBER SHORT: Thank you for an
18 excellent report, Investigator Puente. What is
19 the classification of 2327 18th Street, N.W.?

20 THE WITNESS: I believe it is a CT,
21 Class Tavern License.

22 MEMBER SHORT: Okay. So that doesn't

1 include a nightclub at all?

2 THE WITNESS: No.

3 MEMBER SHORT: No further questions.

4 CHAIRPERSON ANDERSON: Any follow-up?

5 Ms. Krupke?

6 MS. KRUPKE: No, thank you.

7 CHAIRPERSON ANDERSON: No, I'm sorry.

8 It was you, any follow-up?

9 CROSS-EXAMINATION

10 BY MR. NEWMAN:

11 Q Does -- do they have a -- excuse me.

12 Do they have any endorsements for entertainment?

13 A Yes, I believe.

14 Q Do they have endorsements for dancing?

15 A Yes, I believe so.

16 Q And they also have endorsements for
17 cover charge?

18 A Yes, I believe so.

19 Q Thank you.

20 CHAIRPERSON ANDERSON: All right.

21 MR. NEWMAN: No further questions.

22 CHAIRPERSON ANDERSON: Thank you, Mr.

1 Puente, for your testimony. You can step down.

2 Do you now wish to make a closing?

3 MS. KRUPKE: I do. Just a moment to
4 get organized.

5 CHAIRPERSON ANDERSON: We can take a
6 break, a couple of minutes if you need.

7 MS. KRUPKE: That would be great if
8 that --

9 CHAIRPERSON ANDERSON: So we will take
10 a five minute break. All right.

11 MEMBER SHORT: Thank you.

12 CHAIRPERSON ANDERSON: We will take a
13 15 minute break. So we will take a 15 minute
14 break. And what I will do while we take our 15
15 minute break, I will call our other case. All
16 right.

17 (Whereupon, the above-entitled matter
18 went off the record at 2:37 p.m. and resumed at
19 2:50 p.m.)

20 CHAIRPERSON ANDERSON: All right.
21 We're back on the record and we are going to do
22 closing for Case No. 18-251-00219 and Case No.

1 18-CMP-00208. Go ahead, Ms. Krupke.

2 MS. KRUPKE: All right. Good
3 afternoon, Members of the Board. You heard a lot
4 of testimony here today, but I want to make sure
5 that we remain focused on the key facts that
6 matter and those are primarily what is contained
7 in the four corners of the security plan and the
8 settlement agreement and that is because the vast
9 majority of charges that were brought against
10 this establishment were based on violations of
11 those documents.

12 So we have had a lot of testimony here
13 today about the facts that support those
14 violations. And so I want to go one-by-one and
15 make sure that we talk about those and also why
16 the defenses that have been offered by the
17 establishment don't actually apply in the
18 circumstance because they are not actually
19 related to the security plan itself.

20 And so I would like to begin with the
21 page 3 of the security plan. And so this is
22 related to Charges 2 and Charges 5.

1 The security plan requires that the
2 first line of defense is the front door staff.
3 Two security personnel should always be
4 positioned in the main entrance.

5 And so today, we have heard testimony
6 not just from the ABRA Investigator, Kevin
7 Puente, but also from the establishment's
8 witnesses that there were not two individuals
9 stationed at the front door seemingly at any time
10 on August 17, 2018.

11 The testimony from Bill Wiggins was
12 that he alone was the person stationed at the
13 front door and that's if you can credit his
14 testimony. We have heard testimony from ABRA
15 Investigator Kevin Puente that stated that there
16 was no person seated at the front door when he
17 went in and that he specifically did not
18 recognize this individual, Bill Wiggins, as a
19 person who was going to be seated there.

20 And how does he remember? Because he
21 knows that when he enters an establishment, the
22 first thing he does is talk to the person at the

1 front door. And so he would have talked to a
2 person, had that person been seated there. And
3 so we know, based on his testimony, that not --
4 there was not even one person seated at that
5 door, let alone the two that are required by the
6 four corners of the security plan.

7 Now, the defense will have you believe
8 that the security plan only applies after 10:00
9 at night. They didn't specify which days. We
10 have no way of knowing even how they interpret
11 that. But what we can do is read the security
12 plan itself.

13 Nowhere in this document does it say
14 that it starts at 10:00. And we know that it
15 doesn't start at 10:00, because we can read the
16 document and clearly see that there are other
17 elements that would apply no matter what time of
18 day. Such as the Evacuation Plan, checking for
19 fake IDs, all those sorts of things.

20 And so when the Board approved this
21 document in 2010, it had no way of knowing that
22 the interpretation of Green Island was that this

1 plan would only apply at 10:00 during club hours.

2 And so the Board didn't approve this
3 document only to apply to club hours. If the
4 establishment had wanted it only to apply
5 beginning at 10:00 and afterward, it could have
6 put so in the document, but it did not. This
7 document clearly applies at any time. If they
8 have a problem with that, they can petition the
9 Board to change their security plan, but they
10 have not done so.

11 Instead, they have decided we're going
12 to have our own interpretation of this document
13 and we are going to have flagrant violations of
14 the provisions that are required in here. And
15 the reason I'm calling them flagrant is it's not
16 just that they are not having these security
17 personnel, but even their own security personnel,
18 who testified, James Perry, said that well, sure,
19 I start at 10:00, but we might be half an hour
20 late. We might be later than that.

21 Mr. Mehari testified that well, the
22 security plan on August 17th we had one individual

1 show up at 9:00 or so, one individual show up at
2 11:00 or so, so even by their own definition of
3 the security plan's requirements, they have
4 admitted that they don't follow them, because the
5 security plan requires two security personnel to
6 be positioned at the main entrance, but not only
7 that, it also requires floor men.

8 It says on page 5 of the security
9 plan, the next and final line of defense is the
10 floor men and they should be positioned
11 throughout the property, particularly at all
12 exits, bars and the dance floor.

13 We have heard testimony today that at
14 times there was one person in the establishment
15 on August 17th and that is again if you credit the
16 testimony of the witnesses of the establishment.
17 We know that ABRA Investigator Kevin Puente said
18 he didn't see anybody. He had to walk all the
19 way to the second floor just to find Mr.
20 Weldemariam.

21 And so during that time, he didn't see
22 anyone. And yet we heard from James Perry if we

1 are there, you will see us. Why? Because we
2 have a uniform that we require. We have black
3 shirts. We have black pants, black boots. And
4 so you will know us if we are there.

5 And yet a trained ABRA Investigator
6 who has been doing this for a long time, doesn't
7 see anyone. And so we know that based on this
8 testimony that there were in fact no security
9 personnel, no one at the front door, no one who
10 is checking IDs.

11 Now, I know that the establishment has
12 tried to kind of get us off course, right? Well,
13 the bartenders check IDs. That may be so, but
14 that's not what the security plan requires. It
15 requires two people at the front door for
16 checking those IDs.

17 Now, if we turn to page 7 of the
18 security plan, and this specifically applies to
19 Charge 5, this is an incident report. And so the
20 security plan requires that whenever an incident
21 occurs inside or outside the establishment, that
22 security personnel involved must fill out an

1 incident report. It must include all the proper
2 and correct information. And then management
3 must review the report for accuracy and then
4 record the document in the security log.

5 Now, we heard testimony from Mr.
6 Weldemariam that he prepared an incident report
7 of some kind, he referred to notes that he took,
8 but I would posit to you that that testimony is
9 not credible. And here is why.

10 If that incident report, in fact,
11 existed, it would have been brought here today.
12 I think the Board is allowed to take an adverse
13 inference for this. This is a specific charge
14 that was put in this document.

15 Kevin Puente testified that it was
16 never provided to him when he specifically
17 requested it when he visited the establishment
18 four days after the incident. And here we sit a
19 year later, they had plenty of notice that this
20 was one of the charges and yet Mr. Weldemariam
21 testifies it's somewhere in my establishment.

22 I didn't bring it here today to rebut

1 this specific charge and we know when it was
2 asked of him, he did not provide it to ABRA.

3 I would also like to turn your
4 attention to the security agreement. And this
5 relates to Charge 4. And this is specifically
6 related to Section 1.5, "The Alcoholic Beverages
7 are not supposed to be carried from the upper
8 levels on the first and second floor out the main
9 entrance and onto areas that are not licensed."

10 Now, we have heard today a lot of
11 testimony about where the sidewalk cafe is
12 located, but we did get some key information from
13 Mr. Weldemariam during his testimony that, in
14 fact, the area where the individuals were seated
15 with the table outside in front of the steps is
16 not part of the sidewalk cafe. And therefore,
17 not licensed for a person to be sitting there
18 consuming alcoholic beverages or even worse
19 standing there consuming alcoholic beverages.

20 If you know that it's part of the
21 sidewalk cafe, a person is supposed to be seated.
22 And yet these individuals were standing and part

1 of the promoter's event and they were not, in
2 fact, eating at the cafe.

3 There has been testimony here today
4 about well, you have to walk down the stairs and,
5 therefore, we are still on the property. But I
6 say this to you that though we have heard
7 testimony that that is not true, MPD told
8 Investigator Puente that this was public property
9 and I urge you to accept that determination.

10 But even if you disagree, this person
11 walking through with an alcoholic beverage is
12 very different than a person sitting there
13 consuming an alcoholic beverage not in the
14 sidewalk cafe. That is clearly not what the
15 security -- the settlement agreement intended and
16 it is clearly not what the ABRA License permits.

17 So to the other charges that are
18 specific not to the security plan or settlement
19 agreement, but to the violations of the DC Code.
20 So we have two of those.

21 One of those, Charge 1, is the
22 limitation on the transfer of responsibility for

1 the licensee's security. And so we charged that.
2 There are several ways in which this
3 establishment violated this limitation on the
4 transfer of the ownership.

5 The first is the methods of ingress
6 and egress are supposed to remain in the control
7 of the establishment. We have heard a lot of
8 testimony here today about how the person who is
9 sitting at the promoter's table were supposed to
10 be allowing access or not, based on a list that
11 they had, based on tickets that they sold.

12 So the only individuals allowed in
13 were those being controlled by the promoter and
14 not by Mr. Weldemariam. We also know that Mr.
15 Weldemariam told ABRA Investigator Kevin Puente
16 that he thought that those individuals were
17 supposed to be checking IDs.

18 Now, he has changed his story,
19 although on the stand he did actually admit to
20 that as well, and then doubled back and said no,
21 that's actually not what they said, what he said.
22 But in this instance, even if these individuals

1 were not supposed to be checking IDs, no one was
2 checking IDs.

3 And the individuals who were sitting
4 there were controlling the method of ingress into
5 the building, because they were determining who
6 gets in and who doesn't.

7 In addition, the third party that we
8 have here, the contractual relationship has not
9 been very well outlined during the testimony, but
10 we do know that a third-party, the third-party
11 contractor has claimed that he was the person who
12 was, in fact, checking IDs and performing a
13 security adjacent function.

14 And so I would suggest to you that if
15 you do credit his testimony, which again ABRA
16 Investigator Kevin Puente said he did not see him
17 there, but if you do credit that testimony, I
18 suggest to you that that supports the violation
19 in Charge 1 as well.

20 And then we are left with Charge 3.
21 This is the question of whether the establishment
22 knowingly allowed a patron to exit the

1 establishment with an alcoholic beverage in an
2 open container.

3 So the testimony here has provided
4 that Mr. Weldemariam, again, if we believe his
5 testimony that he was standing outside during --
6 before the ABRA Investigators show up, that he
7 was standing out there and he, you know, knew
8 what was happening in terms of the two
9 individuals who were seated there with their
10 alcoholic beverages on public property.

11 But also he stated that at the time
12 that the MPD was questioning him and his
13 promoters and everyone was standing there, an
14 individual walks by, what do we know? We know
15 Mr. Weldemariam was not looking at the
16 individual. We know that no one was looking at
17 the individual because Mr. Weldemariam didn't
18 have anyone who was actually providing security
19 at the exit of the front door.

20 So we have heard testimony that well,
21 we allow people to leave with alcoholic
22 beverages, because they can go on the sidewalk

1 cafe. But in this instance, there was no one at
2 the point of exit from the sidewalk cafe to
3 prevent her from leaving.

4 So we have the inference that the
5 establishment knew what was going on. I mean,
6 you have to imagine that they know people try to
7 leave with these beverages and yet they haven't
8 set up a single way to stop these individuals
9 from actually leaving with those beverages,
10 because they know they let people walk out the
11 front door with them.

12 But what do they do? They don't have
13 any way to stop anyone from leaving once they get
14 to the bottom of the stairs.

15 I would like to talk to you about a
16 couple different pieces of testimony that we have
17 heard here today.

18 And so I'll start with Investigator
19 Puente. So we know that Investigator Puente is
20 familiar with this club and familiar with this
21 establishment. He has been there many times.
22 And so he immediately recognizes Mr. Weldemariam

1 when he gets to the second floor. Why? Because
2 he knows him. He has seen him before.

3 And so if Mr. Weldemariam had, in
4 fact, been on the first floor outside,
5 Investigator Puente would have recognized him as
6 such.

7 Mr. Wiggins' testimony, he admitted on
8 the stand that he is not a security personnel,
9 that's not what he does. He doesn't intervene in
10 fights. He doesn't even know the security plan.
11 He has never read it, never seen it before.

12 So we know that he cannot count as any
13 security personnel that are required under the
14 security plan, even if he was there checking IDs,
15 which again Investigator Puente says he wasn't
16 there. But even if he was, he is not there as a
17 security personnel. He is there helping out,
18 checking IDs. He doesn't even know how to spot a
19 fake ID, which under the security plan is
20 required. There is training on how to spot a
21 fake ID and yet, Mr. Wiggins admitted on the
22 stand I wouldn't know one if I saw one.

1 So turning to Mr. Perry, Mr. Perry who
2 was not at the establishment on the night of
3 August 17th, so we know that he doesn't have the
4 ability to really tell us exactly what happened
5 that night and what didn't. His testimony as to
6 what his folks told him the next day is pure
7 hearsay. We don't even know one of their last
8 names and certainly are not able to question them
9 and tell them -- and ask whether or not anything
10 is true.

11 But we do know that he testified to
12 some really key pieces of information, including
13 that when a third-party is there as a promoter,
14 they are pretty much running the club. That's
15 his exact words. He said they provide their own
16 guy at the door and that comports with what we
17 know here. They provided their own folks sitting
18 out front. They are the ones gaining access or
19 not.

20 He also testified that you would be
21 able to recognize his security personnel. He
22 said you will know because of what we are

1 wearing.

2 And finally, he said that even though
3 he had been there for six years, that he really
4 hadn't seen any incidents and I believe that he
5 testified he did not fill out any incident
6 reports and yet he had been there for six years.

7 Finally, we have the testimony of Mr.
8 Mehari, I'm sorry, Mr. Weldemariam. And his
9 testimony is key for the fifth charge and that is
10 because he admits that on November 11, 2018 the
11 only individual there didn't even have one
12 security personnel let alone the two that are
13 required by the security plan.

14 And so he admits that there was no one
15 else there, but also that he didn't fill out an
16 incident report, in any true sense, because he
17 says he had some notes, which again we have never
18 seen those notes. They were never provided to
19 ABRA.

20 But there is no security log that has
21 been provided to back up this requirement in the
22 incident report that every incident be logged.

1 And we have heard it from Mr. Weldemariam also
2 that well, he hadn't really had any incidents.
3 But as the Board has noted, look at the
4 investigative history. There have been many
5 incidents.

6 And so for Mr. Weldemariam to get up
7 and claim that there haven't really been any and,
8 therefore, we don't need to prepare incident
9 reports, it just is not credible.

10 So I urge the Board to review the
11 evidence, these documents and photographs that
12 are in evidence, particularly Exhibit 3, go a
13 long way to proving the Government's case of a
14 lot of these violations that occurred.

15 And at the end of the day, the
16 Government is requesting revocation. And that is
17 because of the many violations that have occurred
18 here. These allegations are primary tier
19 violations mostly and this is their fourth
20 primary tier violation in four years. And within
21 this, there are multiple primary tier violations.

22 And the severity with which revocation

1 is -- we understand that revocation is a severe
2 penalty, but in this case, the establishment has
3 demonstrated, not just on one night, but on two,
4 that it does not follow its security plan. And
5 those are just two days that ABRA happened to be
6 there.

7 And so these particular incidents
8 demonstrate that the establishment does not
9 follow its security plan. We have heard that it
10 has its own interpretation of when it needs to
11 follow it and when it doesn't. And clearly does
12 not respect the severity of the security plan and
13 the reason it is important to protect the public.

14 And so at this time, the Government
15 requests revocation of this license. Thank you.

16 CHAIRPERSON ANDERSON: Thank you.

17 Mr. Newman?

18 MR. NEWMAN: Thank you for your time
19 today. You know, earlier we talked about that
20 the history of this establishment is not
21 necessarily relevant, with all due deference to
22 Member Short, we are here to talk about two

1 incidents that occurred on April 17 and I'm
2 sorry, August 17, 2018 and April -- and November
3 11th.

4 But in your consideration, it's
5 unreasonable to ask you not to consider them.
6 And if you are going to consider that history,
7 then you also need to consider the history of
8 clubs. It has been there for 39 years. It has
9 been under the same management.

10 And any entity, any entity, public,
11 private, nonprofit that's over 39 years is going
12 to have more than his fair share of challenges
13 and hiccups and headaches.

14 The community is also changed
15 dramatically over that time, but one stalwart
16 that has been there has been this club and
17 continues to be there.

18 Now, Mr. Weldemariam already
19 acknowledged, I'll jump to November 11th, he made
20 a mistake at the bar. But what keeps coming back
21 is the security plan. And unfortunately, and I
22 say this respectfully, we can't ask -- be asked

1 to be beholding to something that is, in fact,
2 ambiguous.

3 Counsel -- the Government referred to
4 -- had a little bit of inconsistency herself.
5 When she talked about the settlement agreement,
6 she said we have to go with the spirit, but when
7 we talked about the security plan, we have to go
8 with the four corners. You can't really do both.

9 And as Mr. Weldemariam testified, and
10 you will be able to read yourself, that security
11 plan is starting from the very second -- the very
12 second sentence, uses the word club. It was no
13 intention that when it is serving meals and
14 dinners during the normal hour where families and
15 everybody can come in, that they are going to
16 have two security guards at the front door,
17 people floating around upstairs. It is a
18 restaurant time. It was intended that when it
19 became a club, then it would -- that's when the
20 security plan would come in.

21 And you heard testimony from the head
22 of security that said that once that kicks over,

1 he has the security guards. He has the security
2 guards downstairs, two downstairs, which is what
3 the very first sentence says. At the entrance
4 two -- two downstairs.

5 If somebody -- the security plan does
6 not say a security personnel should be checking
7 IDs at the time. It says you need to have two
8 security personnel at the front door. Mr. Perry
9 testified that that is, in fact, the case. The
10 security plan does not say that, that you have to
11 have security personnel. It says front door
12 personnel, not necessarily security.

13 All right. We continue throughout the
14 plan and it talks about Friday. It talks --
15 there was even questions that came back to Mr.
16 Weldemariam that asked about the dinner hours and
17 people already in the facility, so there was
18 clear understanding, at that point in time, that
19 it was not intended to have a security plan any
20 day, any time you open the door.

21 But beyond that, beyond that there is
22 also the reasonableness test, because in the

1 event that you ask a restaurant who serves
2 alcohol to have security at all times, then it is
3 leaving a horrible precedent for this District
4 and for all restaurants.

5 What other restaurants who provide--

6 CHAIRPERSON ANDERSON: I don't mean to
7 cut you off, this is not a restaurant. It's a
8 tavern.

9 MR. NEWMAN: It's a --

10 CHAIRPERSON ANDERSON: It's not a
11 restaurant.

12 MR. NEWMAN: That may be true.

13 CHAIRPERSON ANDERSON: There is a
14 major difference. It's not a restaurant. It's a
15 tavern.

16 MR. NEWMAN: Then that makes my point.
17 That every tavern will then be forced to have
18 that and in the event that they are serving food
19 and that is -- I mean, so what we are talking
20 about is having a reasonableness test. Okay?

21 And this is nothing different because
22 Mr. Puente said that he has been there multiple

1 times. And he has been there many times before
2 8:00. And it has been testified to that the
3 security plan has been in place and the way it
4 has been implemented has been implemented that
5 way every single time he has been there.

6 Now, why is it that all of a sudden
7 this time it's a violation? If he has been there
8 all the other times before 10:00 and the security
9 plan has been the same through all that time,
10 then he essentially blessed the security plan and
11 how it is being operated.

12 But this time for some reason, for
13 some reason they are saying okay, well, now you
14 are violating the security plan.

15 Now, at the end of the day that's
16 actually what it comes to. A lot of this is
17 built around that, it's predicated on that
18 security plan. We keep going back to that
19 security plan. And a thorough objective reading
20 of that plan will clearly come back and say it is
21 ambiguous. And you are right and counsel is
22 right, it should have been changed, but changed

1 by the person, by the people who realize that
2 they did it the wrong way and it didn't cover the
3 full swath of what they intended to cover.

4 Because as the Investigator, the very
5 first time he went out, the plan was implemented,
6 if he didn't see security there during 7:00 or at
7 6:00, should have come back, should have notified
8 them and said this plan needs to be modified
9 because something is wrong here. But that's not
10 what, in fact, happened.

11 I want to also renew my motion on the
12 knowing -- the knowingly allowing someone to
13 leave. And so I'll just put that on the record
14 and park that right there and keep it moving.
15 Okay. It has been a long day for everybody and I
16 appreciate it.

17 To the specific charges, Mr.
18 Weldemariam has been having events there since
19 Heaven & Hell existed. All right. And he has
20 been having events there and collaborating and
21 coordinating with different parties. You heard
22 testimony and I didn't object and I probably --

1 well, wouldn't, but to the first individuals who
2 came who don't work there and don't have a dog in
3 this fight, Mr. Wiggins came and testified on his
4 own behalf.

5 Okay. And somebody suggests his
6 credibility is to say that the Government
7 official, the Investigator who is the most honest
8 and ethical and righteous person possible, I'm
9 not saying he is not, but to put him above and
10 his testimony and his credibility beyond the
11 other -- three other people who have said the
12 same -- relatively the same thing, you know, is
13 somewhat questionable as well.

14 He also, as I said, you know, this
15 ethical Investigator who counsel has asked for
16 you to believe everything he said, readily
17 admitted, as I said before, that he has been
18 there multiple times before 10:00 and he never
19 said anything about the lack of security at that
20 point in time. Okay?

21 With regard to the statement that Mr.
22 Perry made and his lax in terms of the security,

1 what he testified was this is our schedule. If
2 someone is going to be late because of the
3 traffic in the District of Columbia, they will
4 call and let them know, so other plans can be put
5 in place. That's not lax. All right. That's
6 intentionality. That is consideration and that's
7 concern. That's recognition for the seriousness
8 of the matter when the club is getting ready to
9 open.

10 That's not some laissez faire attitude
11 to say oh, well, if -- in fact, if they didn't
12 call and didn't have an obligation to call, that
13 would be the situation, but that's not what he
14 testified to. He was very clear about that.

15 Moreover, the personnel that Mr.
16 Weldemariam is hiring, if that's the head of
17 security, then, you know, all taverns should have
18 that type of head of security. Right? I mean,
19 if he is responsible for our top military
20 security, then he is also understanding the
21 realities of what he is supposed to do there when
22 it turns into a club to make sure that that

1 happens.

2 And I would take serious umbrage with
3 challenging his testimony, his ethics in terms of
4 what he testified to.

5 Now, we keep going back to this cafe
6 and the settlement agreement. And this is where
7 the spirit comes in, but then also reasonableness
8 and common sense comes in. Again, something was
9 a problem and yet, my client is the one who is
10 going to be suffering for that.

11 Somehow and someday a settlement
12 agreement was reached to say you could have an
13 outside cafe. You can have the bar inside.
14 There is only one way, one egress in and out of
15 that cafe and that's down the steps on that
16 sidewalk strip into the cafe, back and forth. So
17 there had to be some level of inference at that
18 property, he had the right and that license
19 extended to that egress that was there.

20 And by counsel and everyone's
21 pictures, Exhibit 3 shows that that's where the
22 table was on that egress. So to the extent that

1 the settlement agreement says you only have this
2 cafe, that may be true, but there was a snap top
3 -- snapshot in time that saw two individuals
4 there standing with a beer.

5 Depending on when you take the picture
6 of me today, I was either sitting down or
7 standing up. One would assert that I was
8 standing up the entire day from this single
9 snapshot in time.

10 The beer that was there, it was on the
11 table. It could have been transient. It could
12 have been being passed to someone else. We don't
13 know that.

14 What we do know is that if someone
15 walks out of that establishment and goes into the
16 cafe or vice versa, there is nothing wrong with
17 that or at least by common sense, nothing can be
18 wrong with that, unless there is a thought that
19 there is going to be a string hanging down out of
20 the window. So that egress has to permit alcohol
21 in that egress area.

22 The plan talks about specifically

1 crowd control. And I keep coming back to this
2 plan, because, as counsel said, the plan
3 underpins so much of these charges. The plan
4 specifically talks about crowd control.

5 On November 11th, there was one person
6 in the establishment at approximately 9:00 when
7 he is getting ready to lock up. Now, even if
8 security was there, argumentatively, if security
9 had been there and it had been there all this
10 time and he is getting ready to close up and says
11 hey guys, you know, we are getting ready to lock
12 up the door, you can go ahead, I'm going to close
13 up.

14 Now, if someone walks in right after
15 that, does that mean that he has violated the
16 plan? He told the gentleman I'm closing and the
17 gentleman started to become argumentative, as he
18 testified. And so he said fine, fine, fine, I'll
19 serve you a drink.

20 Now, he is -- he already acknowledged
21 that there was a mistake with the chemical there
22 and that's -- there -- we acknowledge that and

1 there is no defense for that.

2 But he is not ready -- I mean, to say
3 that at that time of night on a Sunday night at
4 9:00, from 6:00 to 9:00 when he had probably five
5 people come in the entire night, has to have four
6 security guards there. It's tantamount to being
7 -- to saying okay, you might as well go out of
8 business, because the revenue is just not there
9 to do that and the reasonableness just doesn't
10 match that.

11 So at some point when we are
12 addressing this, we have to look at what is
13 reasonable and what makes sense. And the
14 foundation documents for this is the settlement--
15 is the security plan. And as I said the very
16 second line talks about club and it continues
17 throughout.

18 So if that was not what was intended,
19 then I'm not sure why the word club is even in
20 there. I'm not sure why and the questions from
21 the Investigator at the time talked about Friday
22 night. Why they were talking about for people

1 already in the club, you should check their IDs.
2 People already in -- sorry, for -- people already
3 for dining, you should check IDs.

4 The clear inference there is that they
5 understood, it was a dining establishment
6 beforehand, security wasn't necessarily going to
7 be there at that time. Once it turns over check
8 the IDs for everybody in there, which is what Mr.
9 Perry testified to.

10 Mr. Wiggins said that he was there, he
11 was present. I don't understand any reason why
12 his -- his testimony should be given similar
13 weight to the Investigators. There was no one
14 else to be able to testify, other than the
15 Investigator.

16 The head of security testified that
17 yes, he did assign one person to be on security,
18 at that point in time, because it was an event.
19 And that same individual was there at 10:00,
20 which brings me to was he there at 9:00 or was he
21 there at 10:00 or was he there 9:30? When was he
22 there?

1 Mr. Perry was very clear that at
2 10:00, the assigned head of security and the
3 individual who was there early for the event were
4 there. So for him to say he didn't see either
5 one of those security if he got there at 10:15
6 and stayed there for 40 minutes, in fact, 40
7 minutes would have been when the next two
8 security guards were supposed to come in.

9 So what was his timing? But this is
10 an individual who we're supposed to give all the
11 credibility to.

12 Mr. -- Heaven & Hell and Mr.
13 Weldemariam has a history of some problems, and I
14 may be being a little euphemistic, but I will
15 urge you that the charges that are put forward
16 today are not sufficient to be able to remove his
17 license and shut down the establishment.

18 The urge for this, in all reality, is
19 the event that happened on November 11th, which
20 was a mistake. It was a mistake. It wasn't a
21 violation of security. It wasn't a violation of
22 the settlement agreement. It was a mistake of

1 someone leaving something there that shouldn't
2 have been there and an accident happened that got
3 a lot of scrutiny and attention.

4 And as a result, the Government's
5 desire is to say, okay, we've got to shut them
6 down, because we don't know how else we are going
7 to respond to this.

8 That's the reality of what is going
9 on. He was even made to be able to hire MPD, but
10 unfortunately that is not happening. As this
11 Board knows, that's a problem that is happening
12 throughout the city.

13 So as I said, the Government is asking
14 to revoke his license. I urge you not to do
15 that. There is a middle ground. He has already
16 acknowledged readily that the incident that
17 happened that night on November 11th was wrong and
18 it shouldn't have occurred, but he cannot readily
19 accept the fact that he was supposed to have
20 security from the moment he opens the door to the
21 time he closes, because the plan does not say
22 that.

1 Counsel wants to talk about where does
2 it say for club or not? Well, it's in the second
3 sentence. Where do they distinguish between club
4 and diner? In the letter. But that's within the
5 four corners. Thank you.

6 CHAIRPERSON ANDERSON: Mr. Newman, let
7 me just point out something to you.

8 MR. NEWMAN: Yes.

9 CHAIRPERSON ANDERSON: When you said
10 there is a middle ground, the Board -- there is
11 no middle ground in the sense that based on if
12 the Board was to find the establishment guilty of
13 the infraction, these are the options that the
14 Board has. And it's not negotiable, it's just
15 these are the options.

16 So it says that because if the Board
17 finds them guilty, it is, because it's the fourth
18 primary tier violation in four years, that the
19 license shall be revoked or fined no less than
20 \$30,000 and suspended for 30 consecutive days.
21 That's what the statute mandates.

22 So that's why I'm -- so it's not -- so

1 your argument should be if the Board found --
2 finds that any of these infractions, that is what
3 the Board -- so okay, the Board -- if the
4 decision is that he is not -- that he did not
5 commit the violation, then he is innocent of
6 charges.

7 But if the Board decides that based on
8 the facts that is presented that he did commit
9 the violation, the Board's hands are tied in the
10 sense that that's what the fine range are.

11 MR. NEWMAN: Well, thank you, Mr.
12 Chairman. I guess what I was referring to was
13 the Government has only asked for revocation.

14 CHAIRPERSON ANDERSON: Right.

15 MR. NEWMAN: The statute does not only
16 limit your hands to revocation. So thank you for
17 the opportunity to clarify that, but that is not
18 what I was referring to in terms of any other
19 alternative within the statute. It was within
20 the guidelines of the statute.

21 CHAIRPERSON ANDERSON: All right.

22 MR. NEWMAN: The Government is only

1 asking for revocation.

2 CHAIRPERSON ANDERSON: Right. I
3 wanted you to make sure that --

4 MR. NEWMAN: Thank you.

5 CHAIRPERSON ANDERSON: -- the way the
6 statute is it's not a matter of that the Board
7 can go outside of the statute. I mean, we either
8 have to say -- we have to make a decision that
9 the violation has occurred and if the violation
10 has occurred, then we look within the statute to
11 see what it is -- what is the range. And those
12 are the options.

13 MR. NEWMAN: Yes.

14 CHAIRPERSON ANDERSON: So I just
15 wanted you to know that, that's all. And it's
16 not that the Board has made any decision. At
17 least I have not made a decision, but I'm just
18 pointing out to you what the range is. Okay.
19 Thank you.

20 All right. The record is now closed.
21 Do the parties wish to file proposed findings of
22 fact and conclusions of law or waive their right

1 to do so?

2 MS. KRUPKE: The Government would be
3 open to providing findings of fact and
4 conclusions of law, if the Board wishes.

5 CHAIRPERSON ANDERSON: It's you tell
6 me. It's -- basically, what that means is that
7 if you plan to do that, it's that you wait for
8 the transcript. You review it. And then you let
9 us -- then you write us proposed findings of fact
10 and conclusions of law. That's -- you can waive
11 it or the Board is -- it's not required.

12 It's your option. You tell me what
13 you want to do.

14 MR. NEWMAN: We will get the
15 transcript and do findings of fact.

16 CHAIRPERSON ANDERSON: All right. So
17 if the parties choose to file proposed findings
18 of fact and conclusions of law, then 90 days from
19 when the Board receives proposed findings of fact
20 and conclusions of law, they are due -- that we
21 will issue a decision.

22 And so therefore, they are due 30 days

1 from the receipt of the transcript, so the Board
2 -- the transcript will be emailed to parties in
3 approximately three weeks. If you change your
4 mind, you can let us know that you have changed
5 your mind.

6 So all right. As Chairperson of the
7 Alcoholic Beverage Control Board for the District
8 of Columbia and in accordance with DC Official
9 Code Section 2-574(b) of the Open Meetings Act, I
10 move that the ABC Board hold a closed meeting for
11 the purpose of seeking legal advice from our
12 counsel on Case No. 18-251-00219 and 18-CMP-
13 00208, Green Island Cafe/Heaven & Hell, pursuant
14 to DC Official Code Section 2-574(b)(4) of the
15 Open Meetings Act and deliberating upon Case No.
16 18-251-00219 and 18-CMP-00208, Green Island
17 Cafe/Heaven & Hell, for the reasons cited in DC
18 Official Code Section 2-574(b)(13) of the Open
19 Meetings Act.

20 Is there a second?

21 MEMBER SHORT: Second.

22 CHAIRPERSON ANDERSON: Mr. Short has

1 seconded the motion.

2 I will now take a roll call vote on
3 the motion before us now that it has been
4 seconded.

5 Mr. Silverstein?

6 MEMBER SILVERSTEIN: I agree.

7 CHAIRPERSON ANDERSON: Mr. Short?

8 MEMBER SHORT: I agree.

9 CHAIRPERSON ANDERSON: Mr. Cato?

10 MEMBER CATO: I agree.

11 CHAIRPERSON ANDERSON: Ms. Crockett?

12 MEMBER CROCKETT: I agree.

13 CHAIRPERSON ANDERSON: Mr. Anderson?

14 I agree.

15 As it appears that the motion has
16 passed 5-0-0, I hereby give notice that the ABC
17 Board will recess these proceedings to hold a
18 closed meeting in the ABC Board conference room
19 pursuant to Section 2-574(b) of the Open Meetings
20 Act.

21 I want to thank everyone today for
22 their presentation and the Board will take this

1 matter under advisement and we will issue a
2 decision, as I said, within 90 days after -- upon
3 the 30 days after you submit your proposed
4 findings of fact and conclusions of law.

5 Thank you very much. This matter is
6 now in recess.

7 MS. KRUPKE: Thank you.

8 MR. NEWMAN: Thank you.

9 CHAIRPERSON ANDERSON: All right.

10 (Whereupon, the above-entitled matter
11 went off the record at 3:33 p.m.)
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In the matter of: Green Island

Before: DC ABRA

Date: 08-07-19

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.

Neal R Gross

Court Reporter

NEAL R. GROSS

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