

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

IN THE MATTER OF: :
:
New York Avenue Beach Bar, LLC: :
t/a Halftime Sports Bar :
1427 H Street, NE, : Show
Retailer CT - ANC 6A : Cause
License No. 94107 : Hearing
Case #18-CMP-00032 :
:
(Substantial Change :
Without Board Approval - :
Increase in Occupancy, :
Cover Charge Endorsement, :
Summer Garden Endorsement, :
Failed to Comply With :
Hours of Operation - Summer :
Garden, Violation of :
Settlement Agreement) :

Wednesday,
October 3, 2018

The Alcoholic Beverage Control Board
met in the Alcoholic Beverage Control Hearing
Room, Reeves Building, 2000 14th Street, N.W.,
Suite 400S, Washington, D.C. 20009, Chairperson
Donovan W. Anderson, presiding.

PRESENT:
DONOVAN W. ANDERSON, Chairperson
NICK ALBERTI, Member
BOBBY CATO, Member
MIKE SILVERSTEIN, Member
JAMES SHORT, Member

ALSO PRESENT:

KEITH LIVELY, Counsel

CAMELIA MAZARD, Counsel

KIMBERLY ROSE, Applicant

CHRISTINE GEPHARDT, OAG

CAMERON ROYSTER, ABRA Investigator

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

Opening Statement by Applicant 5
Closing Statement by Government.71
Closing Statement by Applicant75

WITNESS	DIRECT	CROSS	REDIR	RECROSS
Cameron Royster	11	26	42	
Camelia Rose	44	60	70	

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

2 4:24 p.m.

3 CHAIRPERSON ANDERSON: All right. We
4 are back on the record. Now, the -- this is the
5 second case and the same parties. The second
6 case, this is now Case No. 18-CMP-00032, Halftime
7 Sports Bar.

8 Will the parties, please, identify
9 yourself for the record?

10 MS. GEPHARDT: Good afternoon, Board
11 Members. Chrissy Gephardt here on behalf of the
12 Office of the Attorney General.

13 CHAIRPERSON ANDERSON: Ms. Gephardt.

14 MR. LIVELY: Keith Lively on behalf of
15 Halftime Sports.

16 CHAIRPERSON ANDERSON: Mr. Lively.

17 MS. ROSE: Kimberly Rose, Halftime
18 Sports Bar, owner.

19 CHAIRPERSON ANDERSON: Ms. Rose.

20 MS. MAZARD: Camelia Mazard from
21 Doyle, Barlow & Mazard representing Halftime
22 Sports Bar.

1 CHAIRPERSON ANDERSON: Ms. Mazard.
2 Good afternoon, everyone. Does the Government
3 wish to make a -- are there preliminary matters
4 in this case?

5 MS. GEPHARDT: No, there are not.

6 CHAIRPERSON ANDERSON: All right. All
7 right. Does the Government wish to make an
8 opening statement?

9 MS. GEPHARDT: I actually made a brief
10 one at the very beginning, so I'll just stick
11 with that one.

12 CHAIRPERSON ANDERSON: All right.
13 Does the Government have a witness they wish to
14 call?

15 MS. GEPHARDT: Yes.

16 CHAIRPERSON ANDERSON: I'm sorry, I
17 apologize.

18 MS. GEPHARDT: Oh, okay.

19 CHAIRPERSON ANDERSON: Mr. Lively, do
20 you wish to make an opening statement?

21 MR. LIVELY: I'll just do one small
22 supplement to my previous statement.

1 What is a serious issue here is that
2 there are five primaries being charged today over
3 these two cases and they are all being charged as
4 fourth tier, \$30,000 or revocation violations.

5 I would just like the Board to keep
6 that in mind as we go through the facts here,
7 because I think it will be shown that it is not
8 legitimate to be all five of these primaries as
9 fourth tier violations, that she is being held
10 responsible for previous ownerships run-ins with
11 ABRA.

12 CHAIRPERSON ANDERSON: Well, I think
13 the bottom line, sir, and I could be wrong, the
14 license was not transferred to a new owner. It
15 appears that the license was transferred to --
16 that she has always been an owner of the
17 establishment. Is that correct?

18 MR. LIVELY: Not always.

19 CHAIRPERSON ANDERSON: But I am saying
20 is that when -- basically, in --

21 MEMBER ALBERTI: It was not
22 transferred, not a transfer.

1 CHAIRPERSON ANDERSON: So in 2016,
2 what had occurred is that she -- the other 80
3 percent or was it the other 80 percent of the
4 entity was transferred to her. Is that what
5 occurred? So she became the sole owner?

6 MR. LIVELY: No. Here in 2018, she
7 has taken over the --

8 CHAIRPERSON ANDERSON: In 2000 -- but
9 she has always had interest in this property, in
10 this entity. Is that correct?

11 MR. LIVELY: That's correct.

12 CHAIRPERSON ANDERSON: And the statute
13 and the reason I'm -- we had a similar issue at a
14 hearing last week and we had the owner, it again
15 was stock transfer and they are saying I'm a new
16 owner. I should -- I am not responsible for the
17 misdeeds of a previous owner.

18 Unfortunately, when it is not a new
19 entity, it's a stock transfer. Whatever misdeeds
20 that was done by the previous owner, this new
21 owner is responsible for it.

22 If it was -- if a new person came in,

1 bought the entity, the history died. But because
2 it's a -- we are just shuffling the players
3 within the entity, the fact that prior to her
4 ownership, they had had three -- one or two or
5 three primary tier violations, it travels with
6 the license.

7 So although this might be the first
8 violation that she had on her watch, based on the
9 previous violations that was on the entity, that
10 was on the license, she -- it moves forward.

11 So by operation of law, this -- it
12 appears that this license had four primary tier
13 violations or three -- had primary tier
14 violations prior. And because it was not --
15 because she did not -- it's not a new entity to
16 get a new -- because it's not a new license,
17 basically.

18 MEMBER ALBERTI: Can I -- let me try
19 to help out here. Basically, the license is
20 owned by the LLC. Prior to Ms. Rose, the -- a
21 partner in that LLC, there were violations. She
22 bought the LLC. And the LLC is the licensee.

1 Had she not bought the LLC, if she had formed a
2 whole new company and transferred the license to
3 a new company, to a new LLC, all of the previous
4 violations would have been null and void, but she
5 bought the LLC and so the violations carry
6 forward, because the records show that it is the
7 same LLC as when the previous violations
8 occurred.

9 MR. LIVELY: And I understand what the
10 Board is saying and with your indulgence, I
11 intend to address that in my post-hearing
12 briefing. And I would like to develop a record
13 to support my post-hearing brief.

14 CHAIRPERSON ANDERSON: I mean, you
15 can, but I was just -- you can do that. I'm not
16 going to deny it, but I'm just saying by
17 operation of law, that's what the law states.

18 So if you want to review the law and
19 to say that's not what the law states, so you
20 need to look at it from that perspective, so you
21 need to look at the law by saying that to say
22 whether or not this is -- it's the same LLC.

1 It's the same entity.

2 And that's why when it is charged,
3 because if you -- one thing that you notice, if
4 you look at the history, there is a history. If
5 you look at the case report that was filed by the
6 Investigator, there is a history. And if this
7 was not -- if this was a new entity, it would not
8 come with a history. And you cannot argue,
9 unfortunately, the history away in this case,
10 because it already exists.

11 MR. LIVELY: Right.

12 MEMBER ALBERTI: I understand.

13 CHAIRPERSON ANDERSON: Okay. You can
14 go ahead.

15 MR. LIVELY: Like I said, I'd be
16 brief.

17 CHAIRPERSON ANDERSON: All right.
18 Does the Government have a -- wish to call a
19 witness?

20 MS. GEPHARDT: Yes, Mr. Cameron
21 Royster, I would like to call as a witness.

22 CHAIRPERSON ANDERSON: Okay. Come.

1 Mr. Royster, can you raise your right hand,
2 please?

3 Whereupon,

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

9 INVESTIGATOR ROYSTER: I do.

10 CHAIRPERSON ANDERSON: Your witness,
11 Ms. Gephardt.

12 DIRECT EXAMINATION

13 BY MS. GEPHARDT:

14 Q Okay. Hi.

15 A Hello.

16 Q So, Mr. Royster, I believe the court
17 reporter already has your name and how to spell
18 it, so we are going to go to where do you work?

19 A Yes, I work with the Alcoholic
20 Beverage Regulation Administration.

21 Q Okay. And what is your title?

22 A I'm an Investigator.

1 Q And how long have you worked for ABRA?

2 A Since January 2018.

3 Q Okay. And what does an Investigator
4 do for ABRA?

5 A We conduct investigations and
6 inspections of licensed ABC establishments in the
7 District of Columbia.

8 Q Okay. And on January 21, 2018 at
9 approximately 12:55 a.m., did you have the
10 occasion to visit Halftime Sports Bar?

11 A Yes, I did.

12 Q And what was the reason for your
13 visit?

14 A We were -- I was assigned Noise Task
15 Force along with another Investigator, Nicole
16 Langway, and we were approached by a female MPD
17 Officer who had informed us that outside of
18 Halftime Sports -- well, outside of an
19 establishment, later determined to be Halftime
20 Sports Bar, there was a whole crowd of people, so
21 she wanted us to check the occupancy limits
22 inside of the establishment.

1 Q Okay. So I take it you went to
2 Halftime after that?

3 A Yes.

4 Q Okay. And then what happened when you
5 got there?

6 A When we -- we observed there was a
7 crowd of people outside and so we, Nicole and I,
8 identified ourselves as ABRA Investigators to the
9 security officer, who then took us to the ABC
10 Manager on duty that night, who was a Kenneth
11 Woodley.

12 Q Um-hum.

13 A And basically we informed him how the
14 occupancy limits and we requested to see the ABC
15 license and the Certificate of Occupancy.

16 Q Okay. And did he show you those two
17 things, the license and the Certificate of
18 Occupancy?

19 A Yes, he went to retrieve both
20 documents.

21 Q Okay. And we will get to those in a
22 second here.

1 So when you walked in, what is the
2 first thing that you observed?

3 A I was -- I noticed there was a crowd
4 of people and that the first thing initially I
5 observed right by the doorway, there was a money
6 box with a lady behind it collecting money from
7 patrons that were entering the establishment.
8 And I remember she was collecting \$20 bills and
9 then was handing back wristbands to patrons who
10 had given her a \$20 bill.

11 Q Okay. And did you inquire as to what
12 this was for?

13 A Yes. We inquired about it later on
14 and we were informed that it -- they had an event
15 that night. I know it was one of the exhibits.
16 It was a certain birthday party that they had
17 that night.

18 Q Okay. And how much were they charging
19 for tickets?

20 A It was around \$20 to \$30, I believe.

21 Q Unfortunately, I only have one copy of
22 this.

1 MR. LIVELY: For what it's worth, we
2 don't dispute that we were charging a cover
3 without authorization.

4 MS. GEPHARDT: Okay. All right.
5 Well, we will just move on then.

6 BY MS. GEPHARDT:

7 Q So Mr. Royster, I would now like to
8 show you the establishment's alcohol beverage
9 license.

10 MS. GEPHARDT: Do Board Members have
11 this? I would like for you to take judicial
12 notice of the license.

13 CHAIRPERSON ANDERSON: Okay.

14 MS. GEPHARDT: Okay. I'm showing it
15 to Mr. Royster.

16 BY MS. GEPHARDT:

17 Q Mr. Royster, can you tell me if
18 someone is charging a cover charge, what -- does
19 there need to be something special done with the
20 license?

21 A Yes, under endorsements. Posted under
22 the hours of sale it would easily show cover

1 charge and that would show that they have a cover
2 charge endorsement, that they are authorized to
3 charge a cover charge.

4 Q And do you see that here?

5 A No, I do not.

6 Q Now, if they have an entertainment
7 endorsement, does that include a cover charge or
8 is it separate?

9 A Only under nightclub licenses it does,
10 but not under a tavern license, which Halftime
11 Sports Bar has.

12 Q Okay. Okay. So after you entered the
13 establishment and spoke to the woman about these
14 tickets, what did you do next?

15 A Next we -- the -- first, we went
16 upstairs to the second floor of the establishment
17 and observed there were various people on the
18 second floor as well. It was pretty packed on
19 the second floor.

20 Q Okay. Did you go up to the second
21 floor?

22 A Yes, I did.

1 Q And what -- can you describe what it
2 was like when you were up there?

3 A It was just a dark room filled with
4 packed people. It was -- you could barely walk
5 through the establishment or on the second floor.

6 Q Okay.

7 A But the entire place as a whole, you
8 could barely walk through. I had to kind of
9 scoot through people.

10 Q Okay. And when you talked to Mr.
11 Woodley, you said you asked him for the
12 Certificate of Occupancy, correct?

13 A Yes.

14 Q And did he show it to you?

15 A Yes, he showed Nicole and I. Well,
16 actually, he gave us to different Certificates of
17 Occupancies.

18 Q Oh.

19 A And one was for the first floor and
20 another was for the second floor.

21 Q Okay.

22 MS. GEPHARDT: I would like for the

1 Board to take judicial notice of the Certificate
2 of Occupancy.

3 CHAIRPERSON ANDERSON: That's fine.

4 MS. GEPHARDT: For the first floor.

5 CHAIRPERSON ANDERSON: Um-hum.

6 MS. GEPHARDT: And I'm showing it to
7 Mr. Royster.

8 BY MS. GEPHARDT:

9 Q Can you tell me what this document is,
10 Mr. Royster?

11 A It's a Certificate of Occupancy
12 approved by the Department of Consumer and
13 Regulatory Affairs approving the first floor of
14 Halftime Sports Bar.

15 Q Okay. And looking at that, how do you
16 know that this is for the first floor?

17 A It just shows floors occupied. It
18 only shows the first and it shows the occupant
19 load of 64 next to it as well.

20 Q Okay. Was there any other Certificate
21 of Occupancy that was included for the second
22 floor?

1 A Yes. There was a separate one
2 included on the second -- for the second floor.

3 Q Okay. And for that Certificate of
4 Occupancy, was that part of the ABRA license or
5 can you explain how that works?

6 A No. So the ABRA license only showed
7 64 people total capacity.

8 Q Um-hum.

9 A And so Nicole and I concluded that
10 that is for the first floor. And so after -- of
11 this violation, after conducting the inspection,
12 we went back to ABRA and reviewed ABRA records
13 and there was actually -- at that point, there
14 was another case in progress as well that
15 actually Nicole did where they were violated for
16 using the second floor.

17 And so they weren't allowed to be
18 authorized to use the second floor. So that's
19 where only the 64 people, the capacity, and
20 that's why that's the only C of O in our records.
21 This is the first -- this is the only C of O that
22 you have just provided me.

1 Q Okay. So per the C of Os and the
2 license, were they permitted to have people on
3 the second floor that night?

4 A No, they were not.

5 Q Okay. One moment. Was there anything
6 else that you reviewed prior to going to the
7 establishment or after you had been there to
8 determine and look into this issue about the
9 second floor?

10 A Yes. While I'm preparing for this
11 case, we -- I kind of looked up and read the
12 previous violation that occurred on September --
13 some time in September 2017 and while reading
14 that case, they were also violated for using the
15 second floor as well, basically the same instance
16 where they only had -- they had two different C
17 of Os or Certificate of Occupancies and the ABRA
18 license, the ABC license only has the 64 capacity
19 approved.

20 And so they had to get approval from
21 that September to use the second floor on that
22 date in September of 2017.

1 Q Okay. Okay.

2 MS. GEPHARDT: I would like the Board
3 to take judicial notice of the order approving
4 the Offer in Compromise dated, I think it is,
5 January the 24th, I believe. I think so.

6 CHAIRPERSON ANDERSON: Okay.

7 MS. GEPHARDT: Okay. I would like to
8 show this to Mr. Royster.

9 BY MS. GEPHARDT:

10 Q Can you tell me what that is?

11 A Yes, it's an Offer in Compromise
12 approved by the Alcoholic Beverage Control Board.

13 Q And what is the Offer in Compromise
14 about?

15 A It states specifically of the second
16 floor of Halftime Sports Bar that it shall cease
17 and desist operating the second floor until an
18 expansion to operate the second floor is approved
19 by the Board. And they will submit to the Board
20 an expansion request to operate the second floor.

21 Q Okay. So this was for -- to resolve
22 an event that happened on the September 1, 2017?

1 A Yes.

2 Q Is that correct? Okay. And the date
3 of this notice is what?

4 A The date of this notice is January
5 24th.

6 Q 2018?

7 A Yes.

8 Q Okay. And you mentioned that one of
9 them is -- so cease and desist. What is a Cease
10 and Desist Order?

11 A A Cease and Desist Order usually
12 consists that basically that person or that
13 establishment has to close operating of that
14 specific area, whatever the cease and desist
15 states, they have to cease operations of that
16 specific area.

17 Q Okay. And then it also says the
18 respondent shall submit to the Board an expansion
19 request?

20 A Yes.

21 Q So in these two situations, do you
22 know if they stopped using the second floor,

1 first of all?

2 A In this --

3 Q After January the 24th.

4 A To my knowledge, no. I am not sure if
5 they stopped using the second floor after this.

6 Q Okay. And then have they filed, since
7 this OIC, a request to the Board for an expansion
8 of the second floor?

9 A After the -- I believe it was a week
10 after the investigation, I know Nicole Langway,
11 she looked into if they had submitted an
12 application and she informed -- she said that
13 they did not. But I have not looked, since that
14 date I have not seen if they applied for that
15 yet.

16 Q Okay. Okay. And so after the
17 September 1st event, was -- there was another
18 incident. Is that correct? The one that we are
19 referring to now.

20 A Yes.

21 Q Okay.

22 A Yes.

1 Q Okay. One moment. Okay. And while
2 you were there, did you take a look around the
3 entire establishment?

4 A Yes, I did.

5 Q And what else did you find?

6 A Besides the second floor, Nicole and
7 I, we, went outside to the back of the
8 establishment and we observed patrons standing
9 outside. Some -- it was like a gated area behind
10 the establishment by like a kind of patio kind of
11 area behind the establishment with patrons behind
12 there or patrons in the back of that
13 establishment.

14 Q Okay.

15 A Inside of that area.

16 Q And what exactly was out on that patio
17 area?

18 A I remember seeing there was a stack of
19 tables stacked on the left in the back like kind
20 of left corner. By gauging on the right side,
21 there was like trash cans, like a pile of trash
22 cans, I guess, where they store their trash, but

1 then also there were patrons back there also
2 drinking as well.

3 Q Okay. And you said the patrons were
4 drinking. Were they drinking alcohol?

5 A Yes, to my knowledge, I believe, yes.

6 Q Okay. And how many patrons would you
7 say were out there?

8 A I would say, approximately, maybe 10
9 to -- like 10, around -- I can't give you an
10 approximate answer. I would say maybe around 10
11 or so.

12 Q Okay. Okay. And do you know if
13 Halftime, at that time, had an endorsement to be
14 able to use the patio like that?

15 A We -- by looking at their ABC license
16 that night, Nicole and I, we both determined that
17 they weren't allowed to be using the area. They
18 don't have a summer garden endorsement.

19 Q Oh, okay. And then so this license
20 that we looked at previously is this -- this
21 would have summer garden on it?

22 A Yes, it would show as another

1 endorsement, it would show summer garden and that
2 would be an approved area. Would be the patio
3 area.

4 Q Okay. And do you know if they put in
5 an application for a summer garden since this
6 occurred?

7 A To my knowledge, I'm not sure if they
8 have since this occurred.

9 Q Okay. All right.

10 MS. GEPHARDT: That's all I have for
11 Mr. Royster right now.

12 CHAIRPERSON ANDERSON: Mr. Lively, do
13 you have any questions?

14 CROSS-EXAMINATION

15 BY MR. LIVELY:

16 Q So, Mr. Royster, I just want to be
17 clear, prior to visiting the establishment on the
18 21st of January, did you state that you were or
19 were not aware of the previous violation in
20 September?

21 A I was not aware.

22 Q Okay. When did you first become

1 aware?

2 A When I first became aware of it?

3 Q Um-hum.

4 A From kind of that like going over the
5 information with Nicole.

6 Q Okay. And in reviewing that previous
7 violation, was there any violation for operating
8 a summer garden without a license?

9 A Excuse me? Repeat that.

10 Q The September 2017 --

11 A Um-hum.

12 Q -- violation, that solely concerned
13 operating on the second floor, correct?

14 A Yes.

15 Q There was not a summer garden
16 violation?

17 A To my knowledge, no, I did not see
18 that.

19 Q There was not a cover charge
20 violation?

21 A I don't have -- I don't remember right
22 now. I don't recall, but I don't think so.

1 Q Okay. So four days -- three days
2 after the 21st when you arrived, the Government
3 showed you an order approving the Offer in
4 Compromise, which they gave you as an exhibit?

5 A Yes.

6 Q Okay. And on the second page, the --
7 where it says the terms of the OIC are as
8 follows? To your knowledge, have there been any
9 violations of operation on the second floor?

10 A Since?

11 Q Since January 20 -- 24th, the date of
12 it?

13 A I do not know. I'm not sure. I don't
14 recall.

15 Q All right. And No. 3, "That the
16 respondent shall submit to the Board an expansion
17 request to operate the second floor" --

18 A Yes.

19 Q -- in reading this, do you see a
20 specific date by which they are required to file
21 that request?

22 A No, I do not.

1 Q Okay.

2 MR. LIVELY: I would like -- may I
3 approach, Mr. Chairman?

4 CHAIRPERSON ANDERSON: Sure.

5 BY MR. LIVELY:

6 Q What I'm handing you is the actual
7 transcript.

8 CHAIRPERSON ANDERSON: Did you show
9 Ms. Gephardt what you are showing the witness?

10 MS. GEPHARDT: Thanks.

11 BY MR. LIVELY:

12 Q Mr. Royster, this is related to the
13 order that you reviewed before. This is the
14 actual transcript from the date that the order
15 was entered. I'm going to ask you to turn to
16 page 5. Are you there?

17 A Yeah.

18 Q If you could just read along with me?
19 This is Chairperson Anderson at the -- about
20 three-quarters down the page. He is stating on
21 line 18, that the Offer in Compromise is that
22 "Halftime Sports will be issued a written warning

1 and that they will cease and desist from
2 operating on the second floor until they have
3 submitted an application to the ABC Board and the
4 ABC Board have approved the application."

5 Do you have any personal knowledge
6 that they are in violation of this Offer in
7 Compromise?

8 A I would have to read through, because
9 I've only seen certain parts, so I'm not sure if
10 it is that part. SO you are saying just from
11 line 18 through?

12 Q Yeah, line 18 through the next page,
13 line 2.

14 A So you're just saying from that
15 specific part is anything violated --

16 Q Yes.

17 A -- of that part?

18 Q Yes. In other words, have they been
19 operating on the second floor, to your knowledge?

20 A I have not been there since, so I'm
21 ont sure. Well, you are talking about from the--

22 Q January 24th.

1 A Oh, okay. I --

2 MEMBER ALBERTI: Are you asking for a
3 legal interpretation? I'm just trying to
4 understand the question.

5 THE WITNESS: Yeah, like I --

6 CHAIRPERSON ANDERSON: Hold on, hold
7 on, Mr. Alberti.

8 MEMBER ALBERTI: I'm sorry. I'm
9 sorry.

10 CHAIRPERSON ANDERSON: Hold on, Mr.
11 Alberti.

12 MEMBER ALBERTI: I'm just trying to
13 understand.

14 CHAIRPERSON ANDERSON: Hold on, Mr.
15 Alberti. If there is an objection, the
16 Government needs to raise an objection. The
17 Board should not be raising objection to a
18 question that is asked to a witness.

19 MEMBER ALBERTI: I just asked for
20 clarity.

21 CHAIRPERSON ANDERSON: If the witness
22 doesn't answer -- if the witness does not

1 understand the question, then the witness should
2 clearly state I cannot answer the question, I do
3 not understand.

4 MS. GEPHARDT: Mr. Royster can only
5 testify to what is on this page, but any
6 interpretation of it is not within his bank of
7 knowledge, given as an Investigator.

8 CHAIRPERSON ANDERSON: So I think
9 there was a question have you been any -- I think
10 there is a question have they not complied and
11 Mr. Royster said that I have not been back to the
12 establishment.

13 MS. GEPHARDT: Right.

14 CHAIRPERSON ANDERSON: So --

15 MR. LIVELY: Well, could I just move
16 on?

17 THE WITNESS: I had them mixed up. I
18 thought he was -- just meant since the February
19 one, that's why. I just got mixed up. I haven't
20 been back since the date this was issued, which
21 was the February date.

22 MR. LIVELY: Okay. So that's fine.

1 I'll withdraw.

2 CHAIRPERSON ANDERSON: So what's the--
3 all right, yeah.

4 MR. LIVELY: I'll move on.

5 CHAIRPERSON ANDERSON: All right.

6 BY MR. LIVELY:

7 Q So and as far as the summer garden
8 endorsement, you know of no violations past
9 January 24th?

10 A No, I do not know.

11 Q When you saw the 10 or 15 patrons on
12 the summer garden, was that enough to fill up the
13 space or was there still a lot of room?

14 A There was still a lot of room, but
15 they were scattered around. Some were speaking
16 to people that were standing on the other side of
17 the gate, which was I guess at the opposite or
18 the -- outside of the establishment.

19 Q Okay. And what were people doing out
20 there? What did you observe them do?

21 A I observed people standing talking,
22 drinking, smoking. They had different cups in

1 their hands.

2 Q Okay. And when you talked to Ms. Rose
3 about the summer garden endorsement, was it -- it
4 was Investigator Langway that talked to her?

5 A Yes. While I was standing there a
6 little bit, yes, she spoke with --

7 Q You observed it?

8 A Yes.

9 Q Okay. Does Mr. -- Investigator
10 Langway's report comport with your recollection
11 of that conversation about the summer garden?

12 A Let me read to make sure, to confirm.

13 Q We are on page 2 of the report,
14 looking at the third -- second full paragraph,
15 starting with "Investigator Langway".

16 A Yes, yes.

17 Q And you can jump down in that
18 paragraph to the fifth line from the bottom where
19 it says "Investigator Langway also advised." Are
20 you with me?

21 A Yes.

22 Q Okay. So this is where she is talking

1 about the summer garden?

2 A Yes.

3 Q "Also advise Ms. Rose that the
4 establishment was in violation of operating a
5 summer garden without a summer garden
6 endorsement."

7 Then it states she stated they had --
8 Ms. Rose stated that they had applied for a
9 summer garden endorsement, but was told that she
10 did not need one, since she did not have tables
11 and chairs on the patio.

12 Did she indicate who told her that?

13 A No. Ms. Rose did not indicate who
14 told her that she did not need to apply for that,
15 no.

16 Q Okay. Did you have any understanding
17 one way or another who she was referring to,
18 DCRA, ABRA or maybe a private individual?

19 A I can't really infer for her, but so
20 no.

21 Q Fair enough. Were -- was alcohol
22 being served on the summer garden? Was there --

1 were -- was there a bartender or anything out --

2 A No, there was not.

3 Q And just to confirm, when you went to
4 the second floor, you were provided with a
5 separate Certificate of Occupancy for that second
6 floor?

7 A Yes.

8 Q But they did not have an Alcoholic
9 Beverage License for that second floor?

10 A Well, the second -- it's just not --
11 the second floor is not approved by ABRA. It's
12 not on ABRA's records for the second floor.

13 Q Okay. But it had been approved for
14 occupancy by DCRA, at the very least?

15 A I would -- yeah, they had a
16 Certificate of Occupancy, so I would have
17 inferred that was approved, yes, by the DCRA.

18 Q All right.

19 MR. LIVELY: That's all I have, Mr.
20 Chairman.

21 BY MS. MAZARD:

22 Q Mr. Royster, let me just clarify a

1 couple of things for you.

2 Have you been back to Halftime Sports
3 since January 24th?

4 A Yes, I have.

5 Q When you went back, when was it?

6 A It was February, in mid -- late
7 February.

8 Q Was anybody in the second floor?

9 A It was not in operation then, no.

10 Q And was anybody in the summer garden?

11 A I did not go back there in that area
12 that day.

13 Q And you said -- did you do any
14 research to find out whether or not since January
15 24th has Halftime Sports filed an application to
16 use the summer garden?

17 A I have not done -- or I have not done
18 any research of that no.

19 Q So the last time you checked was as of
20 January 30th?

21 A Me personally, yes.

22 Q Okay. Are you aware that Halftime

1 Sports has filed an application for the summer
2 garden?

3 A No, I'm not.

4 Q Are you aware that they have been
5 placarded for the summer garden?

6 A No, I'm not.

7 Q Are you aware that there was an ANC
8 meeting and they do not plan to protest use of
9 the summer garden?

10 A No.

11 Q The same goes for the second floor.
12 Are you aware that Halftime Sports filed an
13 application to operate on the second floor?

14 A No.

15 Q Are you aware that they have been
16 placarded for the second floor?

17 A No.

18 Q And that the ANC does not plan to
19 protest their request to operate on the second
20 floor?

21 A No.

22 MR. LIVELY: That's all, Mr. Chairman.

1 CHAIRPERSON ANDERSON: Any questions
2 by any Board Members? Mr. Alberti?

3 MEMBER ALBERTI: With respect to the
4 summer garden and the evening in question, you
5 said there wasn't a bar out there?

6 THE WITNESS: Yes, there was not a
7 bar, but --

8 MEMBER ALBERTI: Were people consuming
9 alcohol?

10 THE WITNESS: Yes, people were various
11 people with cups in their hands as well just
12 drinking, smoking outside, just talking.

13 MEMBER ALBERTI: Did it appear that
14 they were consuming alcohol?

15 THE WITNESS: Yes.

16 MEMBER ALBERTI: Okay. And why do you
17 -- why did you conclude that?

18 THE WITNESS: Well, just from my own
19 personal observations and smells, just seeing
20 people how they are -- what they are drinking, I
21 can infer that it's no different -- I can just
22 infer it's alcoholic drink that night.

1 MEMBER ALBERTI: Did it look like
2 alcohol or did it look like soda? What did it
3 look like?

4 THE WITNESS: To me it looked like
5 alcohol. From what I remember, it was just
6 people like I remember specifically one person
7 had like a little kind of like a shotglass and
8 then it was another color. I just remember
9 specific things to my knowledge I remember that
10 looked like they were consuming alcohol out
11 there.

12 MEMBER ALBERTI: Okay. Thank you. So
13 how certain are you?

14 THE WITNESS: I'm 100 percent certain,
15 yeah.

16 MEMBER ALBERTI: Thank you. I'm going
17 to preface my next set of questions, because I
18 think the parties need to know why I'm asking
19 this.

20 Charge 4 is failed to comply with the
21 hours of operation for the summer garden. That
22 charge --

1 MS. GEPHARDT: I'm sorry, the
2 Government is going to be dismissing, let's see--

3 MEMBER ALBERTI: That charge?

4 MS. GEPHARDT: -- excuse me, Charges
5 4 and 5, we are dismissing those charges. We
6 would ask that --

7 MEMBER ALBERTI: Okay. Then I don't
8 need to ask --

9 MS. GEPHARDT: -- the Government can
10 dismiss those charges.

11 MEMBER ALBERTI: -- I do not need to
12 ask my questions. Thank you.

13 MS. GEPHARDT: Okay. Yes.

14 MEMBER ALBERTI: I have no further
15 questions.

16 MS. GEPHARDT: Okay.

17 MEMBER ALBERTI: I am trying to be
18 helpful to everyone.

19 MS. GEPHARDT: We didn't see any --

20 MEMBER ALBERTI: And I mean everyone.

21 CHAIRPERSON ANDERSON: Are there any
22 questions by any other Board Members?

1 Ms. Gephardt, now do you have any
2 questions based on the questions that were asked
3 by Mr. Alberti or by the Board?

4 MS. GEPHARDT: No. I guess just one.

5 REDIRECT EXAMINATION

6 BY MS. GEPHARDT:

7 Q Well, one question would be so when
8 was the last time you checked their file or their
9 whatever to make sure if they had filed like they
10 said an application for a summer garden and
11 second floor?

12 A That was in January.

13 Q That was when you checked?

14 A That was my last check.

15 Q Okay. So the questions he was asking
16 you or she was asking you, you don't have
17 knowledge of because you last checked in January?

18 A Yes.

19 Q Okay.

20 MS. GEPHARDT: That's all I have.

21 CHAIRPERSON ANDERSON: Mr. Lively?

22 MR. LIVELY: That's all I have, Mr.

1 Chairman.

2 CHAIRPERSON ANDERSON: Thank you very
3 much, Mr. Royster, for your testimony. You can
4 step down.

5 (Whereupon, the witness was excused.)

6 CHAIRPERSON ANDERSON: Does the
7 Government have another witness?

8 MS. GEPHARDT: No.

9 CHAIRPERSON ANDERSON: Does the
10 Government rest?

11 MS. GEPHARDT: Yes.

12 CHAIRPERSON ANDERSON: All right.
13 Thank you. Mr. Lively, do you have a witness?

14 MR. LIVELY: Yes, I would like to call
15 Ms. Camelia Rose.

16 CHAIRPERSON ANDERSON: Ms. Rose, can
17 you raise your right hand, please, ma'am?
18 Whereupon,

19 CAMELIA ROSE
20 was called as a witness by Counsel for the
21 Applicant, and having been first duly sworn,
22 assumed the witness stand and was examined and

1 testified as follows:

2 MS. ROSE: I do.

3 CHAIRPERSON ANDERSON: Thank you.

4 Your witness, sir.

5 DIRECT EXAMINATION

6 BY MR. LIVELY:

7 Q Please, state your name.

8 A Kimberly Rose.

9 Q And what is your position, Ms. Rose?

10 A Owner of Halftime Sports Bar.

11 Q Okay. And as we sit here today, are
12 you the 100 percent owner?

13 A Not as of yet.

14 Q Okay.

15 A Only 80 percent.

16 Q As far as the license?

17 A As licensed, yes.

18 Q Okay. Now, we talked about this a
19 little before, but I want to delve into it a
20 little bit more. You purchased, initially, an
21 interest from Karl Graham?

22 A Yes.

1 Q Okay. And when you initially
2 purchased the interest, was it your intention to
3 eventually take over the bar in full?

4 A Yes.

5 Q Had you ever had any experience
6 running a bar when you purchased that interest?

7 A No.

8 Q Okay. What did you do before?

9 A Hair, which I still do now.

10 Q You do hair full time now?

11 A Part time.

12 Q Okay. All right. And did you take
13 any steps to investigate the business before you
14 purchased to find out if it was a viable
15 operation?

16 A I did.

17 Q What -- tell me some of the things you
18 did.

19 A I came in as his business was -- as he
20 had prior to owning -- I mean, coming to the
21 business, it was operating.

22 Q Um-hum.

1 A Fully with people, with patrons and so
2 forth in it.

3 Q Okay. And so you visited while it was
4 open?

5 A Yes.

6 Q For business?

7 A Yes.

8 Q Okay. When you visited it, was there
9 -- were customers being served on the second
10 floor?

11 A Yes.

12 Q Were customers being served on the
13 back patio?

14 A Yes.

15 Q Okay. Did you see any sort of license
16 or documentation on the second floor or the back
17 patio?

18 A Yes.

19 Q Okay. The Investigator talked about
20 a Certificate of Occupancy that he saw for the
21 second floor, did you -- have you seen the
22 Certificate of Occupancy?

1 A I did.

2 Q When you -- at that time?

3 A Yes.

4 Q And on the back patio, I believe it
5 was a sidewalk cafe --

6 A It was a sidewalk cafe, yes.

7 Q So there was a Sidewalk Cafe
8 Certificate of Use --

9 A Yes.

10 Q -- for the back patio?

11 A Yes.

12 Q When you were first delving into
13 purchasing this place, did you have any
14 understanding of the legal implications or
15 differences between the term summer garden and
16 sidewalk cafe?

17 A No, not at all.

18 Q Okay. Was there anyone on your staff
19 that was there to assist in those type of
20 matters, licensing?

21 A Jermaine Matthews.

22 Q Okay. And he was working for Halftime

1 Sports when you were --

2 A Yeah, with Karl Graham.

3 Q Okay.

4 A Yeah.

5 Q And how long had Karl owned the bar,
6 do you know?

7 A I'm not exactly sure. I think maybe
8 a year or so. Maybe -- I'm not exactly sure.
9 Maybe a year or two before I got it maybe.

10 Q Okay.

11 A Or got into it with him. I'm not
12 really sure.

13 Q Okay.

14 A Yeah.

15 Q So --

16 A To be exact, yeah.

17 Q -- and Jermaine Matthews is not
18 employed by Halftime Sports, but he was used as a
19 contractor to assist you in filing for the
20 licensure or whatever?

21 A Yes, absolutely, yes.

22 Q Okay. Now, we are here to talk about

1 an incident that took place on January the 21st of
2 2018. Do you understand that?

3 A Yes.

4 Q Okay. And that was a Saturday night,
5 according to my calendar, the -- well, I guess it
6 was the night of the 20th perhaps, yeah.

7 Okay. So there were, according to the
8 investigative report and Mr. Royster that we just
9 heard, two ABRA Investigators visited your
10 establishment and did an inspection and spoke
11 with you about certain violations that they
12 allege to have found?

13 A Yes.

14 Q Do you recall speaking with them?

15 A Yes.

16 Q Okay. And I want to ask you first
17 about the summer garden. You stated that --
18 according to the investigation, you stated to Ms.
19 Langway that you had applied for a summer garden
20 endorsement, but that you were told you didn't
21 need one.

22 A Correct.

1 Q Because there were no tables or
2 chairs.

3 A Correct.

4 Q Okay. Now, who were you talking about
5 when you said you were told?

6 A Jermaine.

7 Q Jermaine?

8 A Jermaine Matthews.

9 Q And he was, at that time, the person
10 you had hired to do your expediting for want of a
11 better word?

12 A Correct.

13 Q Okay. He didn't actually apply for a
14 summer garden though, did he? It was a sidewalk
15 cafe.

16 A A sidewalk cafe, yes.

17 Q Okay. And why did you feel the need
18 to apply for one in January of -- before this
19 event on January 21st?

20 A I'm sorry? Say it again.

21 Q You said that you had applied for the
22 summer garden endorsement, but that you didn't --

1 but you were told that you did not need one.
2 What -- why did you decide that you needed to?
3 That you felt that you should apply for a summer
4 garden endorsement?

5 A Oh, well, I didn't know until I was
6 told that I needed one.

7 Q Okay.

8 A Yeah.

9 Q By Jermaine?

10 A I'm sorry?

11 Q By Jermaine?

12 A Yes.

13 Q Okay. All right. Now, not having
14 tables and chairs on the patio, is that the --
15 typically what the patio looks like? There is no
16 tables or chairs?

17 A I was told to take them up, yeah.

18 Q And who told you to take them up?

19 A Jermaine.

20 Q Jermaine told you to take them up?

21 A Yes.

22 Q Did he tell you to do that so you

1 wouldn't need an endorsement?

2 A Yes.

3 Q Okay. Is it typical practice, since
4 you have been running the bar, that you serve
5 alcohol on the back patio?

6 A Not at all.

7 Q Okay. What is the back patio used
8 for, if anything?

9 A Conversation, to smoke cigarettes.

10 Q Okay. Does the patio open up onto an
11 alley or what's the layout there?

12 A To Maryland Avenue.

13 Q Okay. So it opens up on --

14 A To a street.

15 Q -- the street?

16 A Yes.

17 Q Is there any sort of fencing that
18 separates --

19 A It's a fence around.

20 Q Okay.

21 A It's a fence around, so it's actually
22 exterior of the building.

1 Q Okay.

2 A On the back.

3 Q Okay. Do you have patrons that will
4 go out there to smoke a cigarette?

5 A Yes, correct.

6 Q Are they allowed to take alcohol out
7 there?

8 A No, they are not.

9 Q Okay. Now, as for the second floor,
10 you heard that, from the Investigator, there was
11 an incident in 2000 -- in September 2017 where
12 the bar was cited for operating on the second
13 floor without a license. Did you -- do you
14 recall?

15 A Yes.

16 Q Do you recall that?

17 A Yes.

18 Q And that was not finally adjudicated
19 until January 24, 2018, correct?

20 A Correct, yes.

21 Q Okay. And you were offered an Offer
22 in Compromise that you accepted on January 24,

1 2014 regarding operating on the second floor.
2 And what was your understanding of what that
3 Offer in Compromise was?

4 A It was a warning.

5 Q A warning?

6 A Yeah.

7 Q And you were to cease and desist
8 operating on the second floor?

9 A Yes.

10 Q Okay. And it also talked about
11 applying for a license to operate on the second
12 floor?

13 A Yes.

14 Q When did you -- when was it your
15 understanding that you had to go and file for
16 that license? Was there a set date that you had
17 to file for it or was it just you can't operate
18 until such time as you file for a license and it
19 gets approved?

20 A Well, I think the 24th in January.

21 Q Um-hum.

22 A I believe the 24th of January.

1 Q That's when you got the Offer in
2 Compromise?

3 A Yeah.

4 Q Okay.

5 A Yeah.

6 Q Have you since applied for a license
7 to operate on the second floor and the summer
8 garden?

9 A Yes, I have.

10 Q And have you been placarded for --

11 A Yes.

12 Q Have you addressed this application
13 with the local ANC?

14 A I have just recently.

15 Q Okay. And --

16 A And then --

17 Q -- are they going to protest?

18 A No. They -- I have been approved.

19 Q Okay. We talked about Jermaine
20 Matthews, does he still work for you?

21 A He does not.

22 Q When did you let him go?

1 A At the end of July.

2 Q Is there a particular reason you let
3 him go?

4 A Because a lot of people worked that
5 should have went and didn't and I didn't find out
6 until after the fact.

7 Q All right. When the Inspectors came
8 and the first time they cited you for operating
9 on the second floor in September of 2017 --

10 A Yes.

11 Q -- do you remember that evening? Do
12 you remember the Investigators coming? Were you
13 there?

14 A Um, somewhat.

15 Q Do you remember when ABRA
16 Investigators come for their inspections, do they
17 inspect the entire premises or --

18 A No, not always.

19 Q Okay.

20 A No.

21 Q Do you remember on that particular
22 night if they inspected the summer garden, the

1 patio?

2 A I can't remember, but I don't think
3 so.

4 Q Okay.

5 A A lot of -- well, no, I don't think
6 they did go back there.

7 Q Now, you were present. It is
8 established you were present on the night of
9 January 21st.

10 A I was, yes.

11 Q And you had the conversation with the
12 ABRA Investigator.

13 A Yes.

14 Q And they talked about three main
15 things. They talked about a cover charge.

16 A Yes.

17 Q And you did -- you were doing a cover
18 charge that night?

19 A Yes, I was, yes.

20 Q All right. And then they talked about
21 the operation on the second floor and the
22 operation in the summer garden?

1 A Yes.

2 Q Okay. Those three things.

3 A Yes.

4 Q Now, you went to an ABRA hearing three
5 days later, the very next Wednesday --

6 A Yes.

7 Q -- on the 24th regarding that previous
8 application?

9 A Yes.

10 Q That previous, I believe, and at that
11 point, you were told not to operate on the second
12 floor without -- not to operate on the second
13 floor until you got a license?

14 A Yes.

15 Q All right. And you are aware that the
16 summer garden -- well, you didn't have a license
17 to operate the summer garden as well, correct?

18 A Yes. Or the sidewalk cafe.

19 Q Yeah.

20 A Yeah.

21 Q Okay. So was it your understanding
22 that the warning was going forward that you would

1 not operate on the second floor or in the summer
2 garden from January 24th forward until such time
3 as you got a license?

4 A Yes.

5 Q And that would take care of that?

6 A Yes.

7 Q Okay.

8 BY MS. MAZARD:

9 Q Yes, so let me just clarify. So have
10 you operated off the second floor since January
11 24, 2018?

12 A I have not.

13 Q Have you applied to increase your
14 occupancy since January 24, 2018?

15 A I have.

16 Q So in your understanding, are you in
17 compliance with the Board Order from January 24,
18 2018?

19 A I am.

20 MR. LIVELY: That's all we have, Mr.
21 Chair.

22 CHAIRPERSON ANDERSON: Ms. Gephardt?

1 MS. GEPHARDT: All right.

2 CROSS-EXAMINATION

3 BY MS. GEPHARDT:

4 Q Okay. Ms. Rose?

5 A Yes.

6 Q When the Investigators came that day
7 on January the 21st --

8 A Yes.

9 Q -- they took a look around and they
10 looked at that back patio --

11 A Yes.

12 Q -- and Mr. Royster testified that he
13 saw tables and chairs stacked up. Is that
14 correct?

15 A Yes.

16 Q Okay. Were those tables and chairs
17 intended to be used on that patio?

18 A No. Why the tables and chairs were
19 stacked up was for -- it was from out -- from the
20 inside onto the outside. Those are inside chairs
21 and tables.

22 Q Okay.

1 A So they were stacked up in a corner.

2 Q Okay.

3 A That was the tables and chairs we use
4 inside of the establishment.

5 Q Okay.

6 A So they stacked up in a corner.

7 Q Gotcha.

8 A Yes.

9 Q And then you also said that when
10 people go out onto the patio, all they can do is
11 smoke and what was the other thing, have
12 conversation?

13 A Yes.

14 Q So if somebody is holding a drink and
15 they want to go outside, are they expected to put
16 their drink like on a counter and leave it and
17 then go outside?

18 A Either you finish it or you put it --
19 you have someone watch it for you. We normally
20 have security there watching, having people stop
21 before they go out.

22 Q Okay.

1 A Security is always there.

2 Q Oh, so you do have somebody watching
3 the patio area?

4 A Absolutely.

5 Q Okay.

6 A We have one at the back door, yes.

7 Q Let's see, so the Board, this was
8 earlier, was telling you about that you inherited
9 the license.

10 A Yes.

11 Q And so you inherited the history,
12 correct?

13 A I understand, yes.

14 Q Okay. So did you know that on
15 September 4, 2015, you were cited for operating a
16 summer garden without an endorsement? Were you
17 aware of that?

18 A I'm not.

19 Q And were you aware that on March 13,
20 2016, you were cited for expanding to another
21 floor, which was a primary violation? Were you
22 aware of that?

1 MR. LIVELY: I'm just going to object
2 to the use of the word you.

3 CHAIRPERSON ANDERSON: Well, she is
4 the owner.

5 MS. GEPHARDT: She is the owner.

6 CHAIRPERSON ANDERSON: I'll allow the
7 question. Go ahead. If she doesn't have an
8 answer --

9 MS. GEPHARDT: Okay.

10 CHAIRPERSON ANDERSON: -- she can say
11 so.

12 BY MS. GEPHARDT:

13 Q So anyway, this March 13, 2016, were
14 you aware that there was a violation for being --
15 for expanding to another floor?

16 A What's the date again? I'm sorry.

17 Q March 13, 2016.

18 A And was I aware of what now?

19 Q Were you aware that there was a
20 violation for expanding to the second floor?
21 Basically having people on the second floor.

22 A I was, yes.

1 Q And then you also know that on
2 September 1, 2017, you had another violation of
3 increasing occupancy to the second floor. Is
4 that correct?

5 A Yes.

6 Q And then of course we have the current
7 violation which was January 21, 2018, which was
8 also expanding to another floor. Is that
9 correct?

10 A Yes.

11 Q Okay. Now, you said you put in your
12 paperwork and you have been given a summer garden
13 endorsement, an endorsement to use the second
14 floor and you said you got your placards and all
15 that stuff?

16 A Yes.

17 Q When did that whole process happen?

18 A Probably about a month or so ago.

19 Maybe about two months ago.

20 Q Okay.

21 A Yeah.

22 MEMBER ALBERTI: What was that? I'm

1 sorry, I didn't hear the answer.

2 MS. GEPHARDT: She said a month or a
3 month or two ago.

4 CHAIRPERSON ANDERSON: Two months ago.

5 MEMBER ALBERTI: Yes.

6 THE WITNESS: Yeah.

7 MS. GEPHARDT: Okay.

8 THE WITNESS: Because the right -- we
9 getting the right plaques. We even went from one
10 phase and going to the next phase.

11 BY MS. GEPHARDT:

12 Q OIC.

13 A Yes.

14 Q Okay. So let me ask you when you got
15 this OIC for basically stating that you have to
16 cease and desist from using the second floor and
17 that you have to go get the proper paperwork
18 licensure to be able to use the second floor.

19 That was in January of 2018, correct?

20 A Yes.

21 Q That's when that OIC came out?

22 A Um-hum.

1 Q So you didn't get the license and the
2 endorsements until just a couple of months ago,
3 right?

4 A Yeah, but we have not used -- I have
5 not used the floor since.

6 Q Okay.

7 A That floor has been out of operation
8 since then.

9 Q Okay. All right. That's all I have.

10 A Yeah.

11 CHAIRPERSON ANDERSON: Any questions
12 by any Board Members? Mr. Alberti?

13 MEMBER ALBERTI: Ms. Rose, you said
14 you went before the ANC about this?

15 THE WITNESS: Yes, I have.

16 MEMBER ALBERTI: And this was ANC-6A?

17 THE WITNESS: Yes.

18 MEMBER ALBERTI: And when was that?

19 THE WITNESS: Probably about a couple
20 -- like a couple of weeks ago, a month. Almost a
21 month ago.

22 MEMBER ALBERTI: A month ago?

1 THE WITNESS: Yeah.

2 MEMBER ALBERTI: Would it have been
3 after July 1st?

4 THE WITNESS: (No audible answer.)

5 MEMBER ALBERTI: After June 1st?

6 THE WITNESS: Yes. I'm not exactly
7 sure of the date, but, yes.

8 MEMBER ALBERTI: Well, it's important.

9 CHAIRPERSON ANDERSON: She stated she
10 is not exactly sure.

11 MEMBER ALBERTI: Because I am not
12 seeing it on the ANC's agenda for September.

13 THE WITNESS: I have --

14 MEMBER ALBERTI: Or -- let me finish.

15 THE WITNESS: I'm sorry. I apologize.

16 MEMBER ALBERTI: For September or July
17 or June and they don't meet in August. So --

18 CHAIRPERSON ANDERSON: She stated she
19 didn't remember, so --

20 MEMBER ALBERTI: I know. But I'm
21 asking what the date was.

22 THE WITNESS: I have it.

1 MEMBER ALBERTI: And do you know when
2 it was placarded?

3 THE WITNESS: Yes, probably like four
4 weeks ago.

5 MEMBER ALBERTI: Four weeks ago it was
6 placarded?

7 THE WITNESS: Yes.

8 MEMBER ALBERTI: So --

9 THE WITNESS: We got like the red --

10 MEMBER ALBERTI: -- you saw the ANC
11 before or after it was placarded?

12 THE WITNESS: I'm sorry?

13 MEMBER ALBERTI: Did you go to the ANC
14 before or after placarding?

15 THE WITNESS: We was already
16 placarded.

17 MEMBER ALBERTI: So I'm not
18 questioning you whether you went to the ANC.

19 THE WITNESS: No, I understand.

20 MEMBER ALBERTI: What I'm questioning
21 is your representation that it was approved by
22 the ANC.

1 THE WITNESS: I understand.

2 MEMBER ALBERTI: I'm not seeing that
3 in any of the ANC's minutes that there was even
4 any discussion. So I'm not questioning that
5 there was a discussion at the ANC, I'm just
6 questioning whether or not there was approval by
7 the ANC.

8 And in fact, this was placarded on
9 October 15, 2018. Is that correct?

10 THE WITNESS: No, it's prior to -- it
11 was probably like --

12 MEMBER ALBERTI: August 31st was when
13 it was placarded.

14 THE WITNESS: Okay.

15 MEMBER ALBERTI: Right?

16 THE WITNESS: There you go.

17 MEMBER ALBERTI: And I'm not seeing an
18 approval in their ANC minutes from September.

19 So I just -- anyway, I'm just putting
20 it out there, because it's -- it may not have
21 been approved by the ANC. And in fact, the
22 petition deadline for the protest is not until

1 October 15th. So anyways, that's why I asked.
2 I'll let it lie there.

3 No further questions.

4 CHAIRPERSON ANDERSON: Any other
5 questions by any other Board Members?

6 Ms. Gephardt?

7 MS. GEPHARDT: No. No, thank you.

8 CHAIRPERSON ANDERSON: Mr. Lively?

9 MR. LIVELY: No.

10 CHAIRPERSON ANDERSON: Ms. Mazard?

11 MS. MAZARD: Yes, let me just clarify.

12 REDIRECT EXAMINATION

13 BY MS. MAZARD:

14 Q You attended the Alcoholic Beverage
15 License Committee meeting on Tuesday, September
16 18th at 7:00 p.m., did you?

17 A Yes.

18 Q And that's for ANC-6A?

19 A Yes.

20 Q And you had a discussion of your
21 request to change your license to add a cover
22 charge endorsement, a 39-seat summer garden and

1 an overall expansion of your seating capacity,
2 correct?

3 A Yes.

4 Q And what was your understanding from
5 the outcome of that meeting?

6 A That they all approved.

7 MR. LIVELY: That's all we have, Mr.
8 Chairman.

9 CHAIRPERSON ANDERSON: All right.
10 Thank you, Ms. Rose, for your testimony.

11 THE WITNESS: You're welcome.

12 CHAIRPERSON ANDERSON: You can step
13 down.

14 (Whereupon, the witness was excused.)

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

17 MR. LIVELY: No, Your Honor. I mean,
18 Mr. Chairman, sorry. Force of habit.

19 CHAIRPERSON ANDERSON: Ms. Gephardt,
20 do you wish to make a closing statement?

21 MS. GEPHARDT: Just briefly that, you
22 know, we have heard testimony here today from Mr.

1 Cameron Royster, ABRA Investigator, who went to
2 Halftime on January 21, 2014 and witness three
3 violations, namely: Failure to have a summer
4 garden endorsement; failure to have a cover
5 charge endorsement; and expanding to the second
6 floor without a license or without, whatever you
7 call it. So those are the three violations.

8 I believe the Government has proven
9 those by a preponderance of the evidence.

10 There was some testimony that came
11 from Ms. Rose that I just want to point out and
12 that is that, you know, when she filed this
13 license for the second floor, I believe the OIC
14 came out in January and they didn't get around to
15 filing the paperwork until August, so it's just
16 something to take note of.

17 Also for the back patio, you know, it
18 is definitely something a little bit concerning
19 that the people were out there smoking. You
20 know, obviously, it seems very difficult that
21 people wouldn't go out there with their drinks.

22 And let's see, and that's all I have.

1 CHAIRPERSON ANDERSON: So what is it
2 you are asking the Board to do?

3 MS. GEPHARDT: In this case, I mean,
4 depending --

5 CHAIRPERSON ANDERSON: Well, we --

6 MS. GEPHARDT: -- if the Board does
7 revocation on the first one, then -- but for this
8 one, we are going to do a \$30,000 fine for
9 allowing -- oh, whoops, wrong one.

10 Okay. Thanks, I'm sorry. Okay. So
11 for the first charge, substantial change, we
12 would go with a \$30,000 fine. And for the cover
13 charge, we would do a \$350 fine. And for Charge
14 3, operating the summer garden, it would be a
15 \$30,000 fine.

16 CHAIRPERSON ANDERSON: Mr. Lively?

17 MR. LIVELY: I'm trying to think, I
18 guess since the Government is alleging all the
19 primaries are four tier, it shouldn't matter what
20 order, but just for my purposes, I would just
21 point out this is the first case, so if for any
22 reason I am successful in changing your mind on

1 the tiers, this -- these violations would come
2 before any violations from the assault in
3 February, as far as for tier purposes.

4 CHAIRPERSON ANDERSON: Well, I'll get
5 some clarification from counsel, I mean, in the
6 sense that when is it that it takes -- I mean, we
7 are making a decision today in both cases, so
8 I'll get clarification.

9 MEMBER ALBERTI: Well, really, the
10 tiers, it doesn't affect the tiers.

11 CHAIRPERSON ANDERSON: I'll get some
12 clarification --

13 MEMBER ALBERTI: Because --

14 CHAIRPERSON ANDERSON: -- from our
15 counsel.

16 MEMBER ALBERTI: -- and you can read
17 the law on that. It does not affect the tiers at
18 all, because -- anyways, it's a long explanation,
19 but you should look at the statute.

20 CHAIRPERSON ANDERSON: As part of our
21 deliberation, I -- we will get -- I'll make sure
22 that I get some direction from counsel how is it

1 that -- how decisions can be made.

2 I know that it was charged as a
3 primary tier violation, so I'm not quite sure of
4 the argument, but I hear what you are saying and
5 I will make sure that legal -- and in all our
6 deliberations, the legal counsel is part of our
7 deliberation to make sure that we are compliant
8 with the law and making whatever decision that we
9 make.

10 MR. LIVELY: As far as addressing a
11 couple of the points the Government raised in the
12 closing, there is no problem whatsoever in them
13 waiting until August 31st to file for this
14 placard, because they weren't using them before.
15 The only obligation they had under the order was
16 to not operate on the second floor or on the
17 patio unless they -- unless and until it was
18 approved by -- they had an approved license.

19 They could, under the terms of the
20 order, wait three more years to do it. The fact
21 is they want to start doing it, because it is --
22 would be beneficial to the bottom line,

1 especially if you have \$30,000 fines to worry
2 about. So they want to do this and they have
3 taken the steps so they can be lawfully allowed
4 to do this in accordance with an order that was
5 issued on January 24, 2018.

6 Again, that order in January 24th was
7 for a citation in September of 2017. And it was
8 issued a warning. I see no reason why a warning
9 wouldn't be appropriate also for the sidewalk
10 cafe considering it was first brought up for the
11 first time on January 24 -- I mean the January
12 21st matter.

13 I think the Board would be well within
14 their rights to issue a warning there.

15 CHAIRPERSON ANDERSON: Mr. Lively, a
16 warning for which case? I'm sorry, which one of
17 the charges you are asking --

18 MR. LIVELY: For the sidewalk cafe
19 now.

20 CHAIRPERSON ANDERSON: But which one
21 of the charges is that? Which -- so be specific
22 when you are in your closing statement.

1 MR. LIVELY: Charge 3.

2 CHAIRPERSON ANDERSON: So for Charge
3 3, you are asking for a warning?

4 MR. LIVELY: Yes. Yes, Mr. Chairman.

5 CHAIRPERSON ANDERSON: Is that --

6 MR. LIVELY: And as I mentioned
7 before, we do not -- we will not dispute Charge
8 2.

9 CHAIRPERSON ANDERSON: And so you are
10 charged -- you said you are not disputing charge
11 what?

12 MR. LIVELY: Charge No. 2, the cover
13 charge.

14 CHAIRPERSON ANDERSON: Okay.

15 MR. LIVELY: Then as far as Charge No.
16 1, I would urge the Board to include that in the
17 warning that was issued on January the 24th, given
18 the time that is -- there was no final
19 adjudication of that September charge. This is
20 the same charge issued again on January 21st,
21 before there was a final indication and before
22 they were under any obligations under an Offer in

1 Compromise.

2 I think it would be fair to include
3 that in the Offer in Compromise and by way of a
4 warning, include it in that warning, especially
5 given the testimony that the second floor has
6 been not in use and there have been no violations
7 recorded by ABRA since that time.

8 CHAIRPERSON ANDERSON: The only thing
9 I -- are you done?

10 MR. LIVELY: Yes, yes.

11 CHAIRPERSON ANDERSON: I mean, I guess
12 the only thing I should point out to you on going
13 by this investigative history, you -- there is
14 the primary tier violation 9/4/15; there is a
15 primary tier violation 3/14/16; there is a
16 primary tier violation 1/21/18.

17 So remember as I stated before, this
18 is not a new license, so the history -- and so if
19 you look at it, that's one of the reasons why if
20 you look in the -- it provides -- you -- there is
21 an investigate history that goes with the
22 license, so whatever decision that -- whatever

1 the decision that the Board will make, it will be
2 made in light of the history, which we have to
3 consider.

4 MR. LIVELY: I agree.

5 CHAIRPERSON ANDERSON: Operation of
6 law, that's -- I'm just pointing that out to you.
7 So I'm not --

8 MR. LIVELY: I am just making the
9 point that a warning was issued for that
10 September violation, which was in the same
11 position as all -- in relation to the other
12 previous violations. And a warning was still
13 given. I think the Board would be within their
14 rights to issue a warning.

15 CHAIRPERSON ANDERSON: Okay. All
16 right.

17 MR. LIVELY: Okay.

18 MS. MAZARD: Mr. Chairperson, let me--

19 CHAIRPERSON ANDERSON: Yes.

20 MS. MAZARD: -- wrap it up. If I may?

21 CHAIRPERSON ANDERSON: Sure.

22 MS. MAZARD: We want to, you know,

1 pray upon your mercy just to explain here that we
2 have a small family-owned business owner. She is
3 new to the industry. She goes out and she hires
4 an expeditor who is a former ABRA employee and
5 she thought he was handling their paperwork.

6 However, she subsequently learned that
7 she was not -- that he was not, so then she goes
8 out and she hires us on July 31, 2018. We review
9 the Board Order in place, January 21 -- 24, 2018.
10 We established two things:

11 (1) Have you operated in the summer
12 garden since this Board Order? We learned no
13 that they have not.

14 (2) We say have you applied to expand
15 to the second floor? They have not. Well, in
16 order to comply with the Board Order, we advised
17 them to do that. They go ahead and they apply
18 for the second floor. They also apply for the
19 summer garden. They also apply to increase the
20 capacity.

21 We are asking today that the Board use
22 the same discretion that it used for that

1 September charge and issue them a warning for
2 this increase in occupancy, instead of imposing
3 such Draconian violations. If you go ahead and
4 put these sanctions on them, essentially, they
5 are going to be forced to close their doors and
6 go out of business.

7 CHAIRPERSON ANDERSON: Okay. Thank
8 you. The record is now closed.

9 Do the parties wish to file proposed
10 findings of fact and conclusions of law or waive
11 your right to do so? Ms. Gephardt?

12 MS. GEPHARDT: No, the Government will
13 not be doing that. Thank you.

14 CHAIRPERSON ANDERSON: Mr. Lively?

15 MR. LIVELY: We will be filing a post-
16 hearing brief.

17 CHAIRPERSON ANDERSON: All right. So
18 the transcript will be due -- the transcript --
19 you will receive the transcript in approximately
20 30 days. And you will have 30 days from the time
21 you receive the transcript to provide an answer
22 and 90 days after that period of time, the Board

1 will issue an order.

2 As Chairperson of the Alcoholic
3 Beverage Control Board for the District of
4 Columbia and in accordance with Section 405 of
5 the Open Meetings Amendment Act of 2010, I move
6 that the ABC Board hold a closed meeting for the
7 purpose of seeking legal advice from our counsel
8 on Case No. 18-CMP-00032, Halftime Sports Bar,
9 per Section 405(b)(4) of the Open Meetings
10 Amendment Act of 2010, and deliberating upon Case
11 No. 18-CMP-00032, Halftime Sports Bar, for the
12 reasons cited in Section 405(b)(13) of the Open
13 Meetings Amendment Act of 2010. Is there a
14 second?

15 MEMBER SILVERSTEIN: Second.

16 CHAIRPERSON ANDERSON: Mr. Silverstein
17 has seconded the motion.

18 I will now take a roll call vote on
19 the motion before us now that it has been
20 seconded.

21 Mr. Silverstein?

22 MEMBER SILVERSTEIN: I agree.

1 CHAIRPERSON ANDERSON: Mr. Short?

2 MEMBER SHORT: I agree.

3 CHAIRPERSON ANDERSON: Mr. Alberti?

4 MEMBER ALBERTI: I agree.

5 CHAIRPERSON ANDERSON: Mr. Cato?

6 MEMBER CATO: I agree.

7 CHAIRPERSON ANDERSON: Mr. Anderson?

8 I agree.

9 As it appears that the motion has
10 passed, I hereby give notice that the ABC Board
11 will hold a closed meeting in the ABC Board
12 conference room pursuant to the Open Meetings Act
13 of 2010 and issue an order within the statutory
14 guidelines.

15 I want to thank the parties for their
16 presentation today. And this case is concluded.
17 Thank you.

18 MS. GEPHARDT: Thank you.

19 MR. LIVELY: Thank you.

20 MS. MAZARD: Thank you.

21 (Whereupon, the Show Cause Hearing was
22 concluded at 5:33 p.m.)

22:14,15 30:1 54:7
65:16
certain 14:16 30:9
40:13,14 49:11
Certificate 13:15,17
17:12 18:1,11,20 19:3
20:17 36:5,16 46:20
46:22 47:8
Certificates 17:16
Chair 59:21
Chairman 29:3 36:20
38:22 43:1 71:8,18
77:4
Chairperson 4:18,20,3
4:13,16,19 5:1,6,12
5:16,19 6:12,19 7:1,8
7:12 9:14 10:13,17,22
11:10 15:13 18:3,5
21:6 26:12 29:4,8,19
31:6,10,14,21 32:8,14
33:2,5 39:1 41:21
42:21 43:2,6,9,12,16
44:3 59:22 63:3,6,10
65:4 66:11 67:9,18
70:4,8,10 71:9,12,15
71:19 73:1,5,16 74:4
74:11,14,20 76:15,20
77:2,5,9,14 78:8,11
79:5,15,18,19,21 81:7
81:14,17 82:2,16 83:1
83:3,5,7
chairs 35:11 50:2 51:14
51:16 60:13,16,18,20
61:3
change 4:10 70:21
73:11
changing 73:22
charge 4:11 15:18 16:1
16:2,3,3,7 27:19
40:20,22 41:3 57:15
57:18 70:22 72:5
73:11,13,13 77:1,2,7
77:10,12,13,15,19,20
81:1
charged 6:2,3 10:2 75:2
77:10
charges 41:4,5,10
76:17,21
charging 14:18 15:2,18
check 12:21 42:14
checked 37:19 42:8,13
42:17
Chrissy 4:11
CHRISTINE 5:14
cigarette 53:4
cigarettes 52:9
citation 76:7
cited 53:12 56:8 62:15

62:20 82:12
clarification 74:5,8,12
clarify 36:22 59:9 70:11
clarity 31:20
clear 26:17
clearly 32:2
close 22:13 81:5
closed 81:8 82:6 83:11
closing 6:4,4 71:20
75:12 76:22
collecting 14:6,8
color 40:8
Columbia 4:2 12:7 82:4
come 10:8,22 56:16
74:1
coming 45:20 56:12
Committee 70:15
company 9:2,3
compliance 59:17
compliant 75:7
complied 32:10
comply 4:12 40:20
80:16
comport 34:10
Compromise 21:4,11
21:13 28:4 29:21 30:7
53:22 54:3 55:2 78:1
78:3
concerned 27:12
concerning 72:18
conclude 39:17
concluded 19:9 83:16
83:22
conclusions 81:10
conduct 12:5
conducting 19:11
conference 83:12
confirm 34:12 36:3
consider 79:3
considering 76:10
consists 22:12
Consumer 18:12
consuming 39:8,14
40:10
contractor 48:19
Control 4:3,17,17 21:12
82:3
conversation 34:11
52:9 57:11 61:12
copy 14:21
corner 24:20 61:1,6
correct 6:17 7:10,11
17:12 22:2 23:18
27:13 49:22 50:3,12
53:5,19,20 58:17
60:14 62:12 64:4,9
65:19 69:9 71:2
counsel 5:11,12 11:5

43:20 74:5,15,22 75:6
82:7
counter 61:16
couple 37:1 66:2,19,20
75:11
course 64:6
court 11:16
cover 4:11 15:2,18,22
16:1,3,7 27:19 57:15
57:17 70:21 72:4
73:12 77:12
CROSS 6:6
CROSS-EXAMINATI...
26:14 60:2
crowd 12:20 13:7 14:3
CT 4:8
cups 33:22 39:11
current 64:6
customers 46:9,12

D

D.C 4:18
dark 17:3
date 20:22 22:2,4 23:14
28:11,20 29:14 32:20
32:21 54:16 63:16
67:7,21
dated 21:4
day 37:12 60:6
days 28:1,1 58:5 81:20
81:20,22
DCRA 35:18 36:14,17
deadline 69:22
decide 51:2
decision 74:7 75:8
78:22 79:1
decisions 75:1
definitely 72:18
deliberating 82:10
deliberation 74:21 75:7
deliberations 75:6
delve 44:19
delving 47:12
deny 9:16
Department 18:12
depending 73:4
describe 17:1
desist 21:17 22:9,10,11
22:14 30:1 54:7 65:16
determine 20:8
determined 12:19
25:16
develop 9:12
died 8:1
differences 47:15
different 17:16 20:16
33:22 39:21
difficult 72:20

DIRECT 6:6 11:12 44:5
direction 74:22
discretion 80:22
discussion 69:4,5
70:20
dismiss 41:10
dismissing 41:2,5
dispute 15:2 77:7
disputing 77:10
District 4:2 12:7 82:3
document 18:9
documentation 46:16
documents 13:20
doing 33:19 57:17
75:21 81:13
Donovan 4:19,20
door 62:6
doors 81:5
doorway 14:5
Doyle 4:21
Draconian 81:3
drink 39:22 61:14,16
drinking 25:2,4,4 33:22
39:12,20
drinks 72:21
due 81:18
duly 11:6 43:21
duty 13:10

E

earlier 62:8
easily 15:22
Either 61:18
employed 48:18
employee 80:4
endorsement 4:11,12
16:2,7 25:13,18 26:1
33:8 34:3 35:6,9
49:20 50:22 51:4 52:1
62:16 64:13,13 70:22
72:4,5
endorsements 15:21
66:2
entered 16:12 29:15
entering 14:7
entertainment 16:6
entire 17:7 24:3 56:17
entity 7:4,10,19 8:1,3,9
8:15 10:1,7
especially 76:1 78:4
essentially 81:4
established 57:8 80:10
establishment 6:17
12:19,22 14:7 16:13
16:16 17:5 20:7 22:13
24:3,8,10,11,13 26:17
32:12 33:18 35:4
49:10 61:4

establishment's 15:8
establishments 12:6
evening 39:4 56:11
event 14:14 21:22
 23:17 50:19
eventually 45:3
evidence 72:9
exact 48:16
exactly 24:16 48:7,8
 67:6,10
EXAMINATION 11:12
 42:5 44:5 70:12
examined 11:7 43:22
excuse 27:9 41:4
excused 43:5 71:14
exhibit 28:4
exhibits 14:15
exists 10:10
expand 80:14
expanding 62:20 63:15
 63:20 64:8 72:5
expansion 21:18,20
 22:18 23:7 28:16 71:1
expected 61:15
expediting 50:10
expeditor 80:4
experience 45:5
explain 19:5 80:1
explanation 74:18
exterior 52:22

F

fact 8:3 56:6 69:8,21
 75:20 81:10
facts 6:6
failed 4:12 40:20
failure 72:3,4
fair 35:21 78:2
family-owned 80:2
far 33:7 44:16 74:3
 75:10 77:15
February 32:18,21 37:6
 37:7 74:3
feel 50:17
felt 51:3
female 12:16
fence 52:19,21
fencing 52:17
fifth 34:18
file 28:20 42:8 54:15,17
 54:18 75:13 81:9
filed 10:5 23:6 37:15
 38:1,12 42:9 72:12
filing 48:19 72:15 81:15
fill 33:12
filled 17:3
final 77:18,21
finally 53:18

find 24:5 37:14 45:14
 56:5
findings 81:10
fine 18:3 32:22 73:8,12
 73:13,15
finer 76:1
finish 61:18 67:14
first 8:7 11:6 14:2,4
 16:15 17:19 18:4,13
 18:16,18 19:10,21
 23:1 26:22 27:2 43:21
 47:12 49:16 56:8 73:7
 73:11,21 76:10,11
five 6:2,8
floor 16:16,18,19,21
 17:5,19,20 18:4,13,16
 18:22 19:2,10,16,18
 20:3,9,15,21 21:16,17
 21:18,20 22:22 23:5,8
 24:6 27:13 28:9,17
 30:2,19 36:4,6,9,11
 36:12 37:8 38:11,13
 38:16,20 42:11 46:10
 46:16,21 53:9,13 54:1
 54:8,12 55:7 56:9
 57:21 58:12,13 59:1
 59:10 62:21 63:15,20
 63:21 64:3,8,14 65:16
 65:18 66:5,7 72:6,13
 75:16 78:5 80:15,18

floors 18:17

follows 11:8 28:8 44:1

Force 12:15 71:18

forced 81:5

formed 9:1

former 80:4

forth 46:2

forward 8:10 9:6 58:22
 59:2

found 49:12

four 8:12 28:1 68:3,5

73:19

fourth 6:4,9

full 34:14 45:3,10

Fully 46:1

further 41:14 70:3

G

garden 4:12,13 25:18
 25:21 26:1,5 27:8,15
 33:7,12 34:3,11 35:1
 35:5,5,9,22 37:10,16
 38:2,5,9 39:4 40:21
 42:10 47:15 49:17,19
 50:14,22 51:4 55:8
 56:22 57:22 58:16,17
 59:2 62:16 64:12
 70:22 72:4 73:14

80:12,19

gate 33:17

gated 24:9

gauging 24:20

General 4:12

Gephardt 5:14 4:10,11

4:13 5:5,9,15,18

10:20 11:11,13 15:4,6

15:10,14,16 17:22

18:4,6,8 21:2,7,9

26:10 29:9,10 32:4,13

41:1,4,9,13,16,19

42:1,4,6,20 43:8,11

59:22 60:1,3 63:5,9

63:12 65:2,7,11 70:6

70:7 71:19,21 73:3,6

81:11,12 83:18

getting 65:9

give 25:9 83:10

given 14:10 32:7 64:12

77:17 78:5 79:13

Gotcha 61:7

Government 6:4 5:2,7

5:13 10:18 11:6 28:2

31:16 41:2,9 43:7,10

72:8 73:18 75:11

81:12

Graham 44:21 48:2

guess 24:22 33:17 42:4

49:5 73:18 78:11

guidelines 83:14

H

H 4:7

habit 71:18

hair 45:9,10

Halftime 4:7,6,15,17,21

12:10,18,19 13:2

16:10 18:14 21:16

25:13 29:22 37:2,15

37:22 38:12 44:10

47:22 48:18 72:2 82:8

82:11

hand 11:1 43:17

handing 14:9 29:6

handling 80:5

hands 34:1 39:11

happen 64:17

happened 13:4 21:22

hear 65:1 75:4

heard 49:9 53:10 71:22

hearing 4:8,17 7:14

58:4 81:16 83:21

held 6:9

Hello 11:15

help 8:19

helpful 41:18

Hi 11:14

hired 50:10

hires 80:3,8

history 8:1 10:4,4,6,8,9

62:11 78:13,18,21

79:2

hold 31:6,6,10,14 82:6

83:11

holding 61:14

Honor 71:17

hours 4:13 15:22 40:21

I

identified 13:8

identify 4:8

implications 47:14

important 67:8

imposing 81:2

incident 23:18 49:1

53:11

include 16:7 77:16 78:2

78:4

included 18:21 19:2

increase 4:11 59:13

80:19 81:2

increasing 64:3

indicate 35:12,13

indication 77:21

individual 35:18

indulgence 9:10

industry 80:3

infer 35:19 39:21,22

inferred 36:17

information 27:5

informed 12:17 13:13

14:14 23:12

inherited 62:8,11

initially 14:4 44:20 45:1

inquire 14:11

inquired 14:13

inside 12:22 24:15

60:20,20 61:4

inspect 56:17

inspected 56:22

inspection 19:11 49:10

inspections 12:6 56:16

Inspectors 56:7

instance 20:15

intend 9:11

intended 60:17

intention 45:2

interest 7:9 44:21 45:2

45:6

interpretation 31:3 32:6

investigate 45:13 78:21

investigation 23:10

49:18

investigations 12:5

investigative 49:8

78:13
Investigator 5:15 10:6
 11:4,9,22 12:3,15
 32:7 34:4,9,15,19
 46:19 53:10 57:12
 72:1
Investigators 13:8 49:9
 56:12,16 60:6
issue 6:1 7:13 20:8
 76:14 79:14 81:1 82:1
 83:13
issued 29:22 32:20
 76:5,8 77:17,20 79:9

J

JAMES 4:22
January 12:2,8 21:5
 22:4 23:3 26:18 28:11
 30:22 33:9 37:3,14,20
 42:12,17 49:1 50:18
 50:19 53:19,22 54:20
 54:22 57:9 59:2,10,14
 59:17 60:7 64:7 65:19
 72:2,14 76:5,6,11,11
 77:17,20 80:9
Jermaine 47:21 48:17
 50:6,7,8 51:9,11,19
 51:20 55:19
judicial 15:11 18:1 21:3
July 56:1 67:3,16 80:8
jump 34:17
June 67:5,17

K

Karl 44:21 48:2,5
keep 6:5
Keith 5:11 4:14
Kenneth 13:10
Kimberly 5:13 4:17
 44:8
knowledge 23:4 25:5
 26:7 27:17 28:8 30:5
 30:19 32:7 40:9 42:17

L

lady 14:6
Langway 12:16 23:10
 34:4,15,19 49:19
Langway's 34:10
late 37:6
law 8:11 9:17,17,18,19
 9:21 74:17 75:8 79:6
 81:10
lawfully 76:3
layout 52:11
learned 80:6,12
leave 61:16
left 24:19,20

legal 31:3 47:14 75:5,6
 82:7
legitimate 6:8
let's 41:2 62:7 72:22
license 4:8 6:14,15 8:6
 8:10,12,16,19 9:2
 13:15,17 15:9,12,20
 16:10 19:4,6 20:2,18
 20:18 25:15,19 27:8
 36:9 44:16 46:15
 53:13 54:11,16,18
 55:6 58:13,16 59:3
 62:9 66:1 70:15,21
 72:6,13 75:18 78:18
 78:22

licensed 12:6 44:17
licensee 8:22
licenses 16:9
licensing 47:20
licensure 48:20 65:18
lie 70:2
light 79:2
limits 12:21 13:14
line 6:13 29:21 30:11,12
 30:13 34:18 75:22
little 34:6 40:7 44:19,20
 72:18
Lively 5:11 4:14,14,16
 5:19,21 6:18 7:6,11
 9:9 10:11,15 15:1
 26:12,15 29:2,5,11
 32:15,22 33:4,6 36:19
 38:22 42:21,22 43:13
 43:14 44:6 59:20 63:1
 70:8,9 71:7,17 73:16
 73:17 75:10 76:15,18
 77:1,4,6,12,15 78:10
 79:4,8,17 81:14,15
 83:19

LLC 4:6 8:20,21,22,22
 9:1,3,5,7,22
load 18:19
local 55:13
long 12:1 48:5 74:18
look 9:20,21 10:4,5
 20:8 24:2 40:1,2,3
 60:9 74:19 78:19,20
looked 20:11 23:11,13
 25:20 40:4,10 60:10
looking 18:15 25:15
 34:14
looks 51:15
lot 33:13,14 56:4 57:5

M

ma'am 43:17
main 57:14
making 74:7 75:8 79:8

Manager 13:10
March 62:19 63:13,17
Maryland 52:12
matter 4:5 73:19 76:12
matters 5:3 47:20
Matthews 47:21 48:17
 50:8 55:20
Mazard 5:12 4:20,20,21
 5:1 36:21 59:8 70:10
 70:11,13 79:18,20,22
 83:20
me-- 79:18
mean 9:14 41:20 45:20
 71:17 73:3 74:5,6
 76:11 78:11
meant 32:18
meet 67:17
meeting 4:4 38:8 70:15
 71:5 82:6 83:11
Meetings 82:5,9,13
 83:12
Member 4:21,21,22,22
 6:21 8:18 10:12 31:2
 31:8,12,19 39:3,8,13
 39:16 40:1,12,16 41:3
 41:7,11,14,17,20
 64:22 65:5 66:13,16
 66:18,22 67:2,5,8,11
 67:14,16,20 68:1,5,8
 68:10,13,17,20 69:2
 69:12,15,17 74:9,13
 74:16 82:15,22 83:2,4
 83:6
Members 4:11 15:10
 39:2 41:22 66:12 70:5
mentioned 22:8 77:6
mercy 80:1
met 4:17
mid 37:6
MIKE 4:22
mind 6:6 73:22
minutes 69:3,18
misdeeds 7:17,19
mixed 32:17,19
moment 20:5 24:1
money 14:5,6
month 64:18 65:2,3
 66:20,21,22
months 64:19 65:4 66:2
motion 82:17,19 83:9
move 15:5 32:15 33:4
 82:5
moves 8:10
MPD 12:16

N

N.W 4:18
name 11:17 44:7

NE 4:7
need 9:20,21 15:19
 35:10,14 40:18 41:8
 41:11 49:21 50:17
 51:1 52:1
needed 51:2,6
needs 31:16
new 4:6 6:14 7:15,18,20
 7:22 8:15,16,16 9:2,3
 9:3 10:7 78:18 80:3
NICK 4:21
Nicole 12:15 13:7 17:15
 19:9,15 23:10 24:6
 25:16 27:5
night 13:10 14:15,17
 20:3 25:16 39:22 49:4
 49:6 56:22 57:8,18
nightclub 16:9
Noise 12:14
normally 61:19
note 72:16
notice 10:3 15:12 18:1
 21:3 22:3,4 83:10
noticed 14:3
null 9:4

O

O 19:20,21
OAG 5:14
object 63:1
objection 31:15,16,17
obligation 75:15
obligations 77:22
observations 39:19
observe 33:20
observed 13:6 14:2,5
 16:17 24:8 33:21 34:7
obviously 72:20
occasion 12:10
Occupancies 17:17
 20:17
occupancy 4:11 12:21
 13:14,15,18 17:12
 18:2,11,21 19:4 36:5
 36:14,16 46:20,22
 59:14 64:3 81:2
occupant 18:18
occupied 18:17
occurred 7:2,5 9:8
 20:12 26:6,8
October 4:16 69:9 70:1
Offer 21:4,11,13 28:3
 29:21 30:6 53:21 54:3
 55:1 77:22 78:3
offered 53:21
Office 4:12
officer 12:17 13:9
OIC 23:7 28:7 65:12,15

65:21 72:13
ont 30:21
open 46:4 52:10 82:5,9
 82:12 83:12
opening 6:3 5:8,20
opens 52:13
operate 21:18,20 28:17
 38:13,19 54:11,17
 55:7 58:11,12,17 59:1
 75:16
operated 59:10 80:11
operating 21:17 22:13
 27:7,13 30:2,19 35:4
 45:21 53:12 54:1,8
 56:8 62:15 73:14
operation 4:13 8:11
 9:17 28:9 37:9 40:21
 45:15 57:21,22 66:7
 79:5
operations 22:15
opposite 33:17
order 21:3 22:10,11
 28:3 29:13,14 59:17
 73:20 75:15,20 76:4,6
 80:9,12,16,16 82:1
 83:13
Os 20:1,17
outcome 71:5
outside 12:17,18 13:7
 24:7,9 33:18 39:12
 60:20 61:15,17
overall 71:1
owned 8:20 48:5
owner 4:18 6:14,16 7:5
 7:14,16,17,20,21
 44:10,12 63:4,5 80:2
ownership 8:4
ownerships 6:10
owning 45:20

P

P-R-O-C-E-E-D-I-N-G-S
 4:1
p.m 4:2 70:16 83:22
packed 16:18 17:4
page 28:6 29:16,20
 30:12 32:5 34:13
paperwork 64:12 65:17
 72:15 80:5
paragraph 34:14,18
part 19:4 30:10,15,17
 45:11 74:20 75:6
particular 56:2,21
parties 4:5,8 40:18 81:9
 83:15
partner 8:21
parts 30:9
party 14:16

passed 83:10
patio 24:10,16 25:14
 26:2 35:11 46:13,17
 47:4,10 51:14,15 52:5
 52:7,10 57:1 60:10,17
 61:10 62:3 72:17
 75:17
patrons 14:7,9 24:8,11
 24:12 25:1,3,6 33:11
 46:1 53:3
people 12:20 13:7 14:4
 16:17 17:4,9 19:7,19
 20:2 33:16,19,21 39:8
 39:10,11,20 40:6 46:1
 56:4 61:10,20 63:21
 72:19,21
percent 7:3,3 40:14
 44:12,15
period 81:22
permitted 20:2
person 7:22 22:12 40:6
 50:9
personal 30:5 39:19
personally 37:21
perspective 9:20
petition 69:22
phase 65:10,10
pile 24:21
placard 75:14
placarded 38:5,16
 55:10 68:2,6,11,16
 69:8,13
placarding 68:14
placards 64:14
place 17:7 47:13 49:1
 80:9
plan 38:8,18
plaques 65:9
players 8:2
please 4:8 11:2 43:17
 44:7
point 19:13 58:11 72:11
 73:21 78:12 79:9
pointing 79:6
points 75:11
position 44:9 79:11
post- 81:15
post-hearing 9:11,13
Posted 15:21
practice 52:3
pray 80:1
preface 40:17
preliminary 5:3
premises 56:17
preparing 20:10
preponderance 72:9
present 4:20 5:9 57:7,8
presentation 83:16

presiding 4:19
pretty 16:18
previous 5:22 6:10 7:17
 7:20 8:9 9:3,7 20:12
 26:19 27:6 58:7,10
 79:12
previously 25:20
primaries 6:2,8 73:19
primary 8:5,12,13 62:21
 75:3 78:14,15,16
prior 8:3,14,20 20:6
 26:17 45:20 69:10
private 35:18
probably 64:18 66:19
 68:3 69:11
problem 75:12
process 64:17
progress 19:14
proper 65:17
property 7:9
proposed 81:9
protest 38:8,19 55:17
 69:22
proven 72:8
provide 81:21
provided 19:22 36:4
provides 78:20
purchased 44:20 45:2,6
 45:14
purchasing 47:13
purpose 82:7
purposes 73:20 74:3
pursuant 83:12
put 26:4 61:15,18 64:11
 81:4
putting 69:19

Q

question 31:4,18 32:1,2
 32:9,10 39:4 42:7
 63:7
questioning 68:18,20
 69:4,6
questions 26:13 39:1
 40:17 41:12,15,22
 42:2,2,15 66:11 70:3
 70:5
quite 75:3

R

raise 11:1 31:16 43:17
raised 75:11
raising 31:17
read 20:11 29:18 30:8
 34:12 74:16
reading 20:13 28:19
reason 7:13 12:12 56:2
 73:22 76:8

reasons 78:19 82:12
recall 27:22 28:14
 49:14 53:14,16
receive 81:19,21
recollection 34:10
record 4:4,9 9:12 81:8
recorded 78:7
records 9:6 19:12,20
 36:12
RECROSS 6:6
red 68:9
REDIR 6:6
REDIRECT 42:5 70:12
Reeves 4:18
referring 23:19 35:17
regarding 54:1 58:7
Regulation 11:20
Regulatory 18:13
related 29:12
relation 79:11
remember 14:8 24:18
 27:21 40:5,6,8,9
 56:11,12,15,21 57:2
 67:19 78:17
Repeat 27:9
report 10:5 34:10,13
 49:8
reporter 11:17
representation 68:21
representing 4:21
request 21:20 22:19
 23:7 28:17,21 38:19
 70:21
requested 13:14
required 28:20
research 37:14,18
resolve 21:21
respect 39:3
respondent 22:18
 28:16
responsible 6:10 7:16
 7:21
rest 43:10
Retailer 4:8
retrieve 13:19
review 9:18 80:8
reviewed 19:12 20:6
 29:13
reviewing 27:6
revocation 6:4 73:7
rights 76:14 79:14
roll 82:18
room 4:18 17:3 33:13
 33:14 83:12
Rose 5:13 6:7 4:17,17
 4:19 8:20 34:2 35:3,8
 35:13 43:15,16,19
 44:2,8,9 60:4 66:13

71:10 72:11
Royster 5:15 6:6 10:21
 11:1,4,9,16 15:7,15
 15:17 18:7,10 21:8
 26:11,16 29:12 32:4
 32:11 36:22 43:3 49:8
 60:12 72:1
run-ins 6:10
running 45:6 52:4

S

sale 15:22
sanctions 81:4
Saturday 49:4
saw 33:11 46:20 60:13
 68:10
saying 6:19 7:15 9:10
 9:16,21 30:10,14 75:4
says 22:17 28:7 34:19
scattered 33:15
scoot 17:9
seating 71:1
second 4:5,5 13:22
 16:16,18,19,20 17:5
 17:20 18:21 19:2,2,16
 19:18 20:3,9,15,21
 21:15,17,18,20 22:22
 23:5,8 24:6 27:13
 28:6,9,17 30:2,19
 34:14 36:4,5,9,10,11
 36:12 37:8 38:11,13
 38:16,19 42:11 46:9
 46:16,21 53:9,12 54:1
 54:8,11 55:7 56:9
 57:21 58:11,12 59:1
 59:10 63:20,21 64:3
 64:13 65:16,18 72:5
 72:13 75:16 78:5
 80:15,18 82:14,15
seconded 82:17,20
Section 82:4,9,12
security 13:9 61:20
 62:1
see-- 41:2
seeing 24:18 39:19
 67:12 69:2,17
seeking 82:7
seen 23:14 30:9 46:21
sense 74:6
separate 16:8 19:1 36:5
separates 52:18
September 20:12,13,21
 20:22 21:22 23:17
 26:20 27:10 53:11
 56:9 62:15 64:2 67:12
 67:16 69:18 70:15
 76:7 77:19 79:10 81:1
serious 6:1

serve 52:4
served 35:22 46:9,12
set 40:17 54:16
Settlement 4:14
Short 4:22 83:1,2
shotglass 40:7
show 4:7 9:6 13:16 15:8
 15:22 16:1 17:14 21:8
 25:22 26:1 29:8 83:21
showed 17:15 19:6
 28:3
showing 15:14 18:6
 29:9
shown 6:7
shows 18:17,18,18
shuffling 8:2
side 24:20 33:16
sidewalk 47:5,6,7,16
 50:14,16 58:18 76:9
 76:18
Silverstein 4:22 82:15
 82:16,21,22
similar 7:13
sir 6:13 44:4
sit 44:11
situations 22:21
small 5:21 80:2
smells 39:19
smoke 52:9 53:4 61:11
smoking 33:22 39:12
 72:19
soda 40:2
sole 7:5
solely 27:12
somebody 61:14 62:2
somewhat 56:14
sorry 5:16 31:8,9 41:1
 50:20 51:10 63:16
 65:1 67:15 68:12
 71:18 73:10 76:16
sort 46:15 52:17
space 33:13
speaking 33:15 49:14
special 15:19
specific 22:14,16 28:20
 30:15 40:9 76:21
specifically 21:15 40:6
spell 11:17
spoke 16:13 34:6 49:10
Sports 4:7,7,15,18,22
 12:10,18,20 16:11
 18:14 21:16 29:22
 37:2,15 38:1,12 44:10
 48:1,18 82:8,11
stack 24:18
stacked 24:19 60:13,19
 61:1,6
staff 47:18

stand 11:7 43:22
standing 24:8 33:16,21
 34:5
start 75:21
starting 34:15
state 26:18 32:2 44:7
stated 35:7,8 49:17,18
 67:9,18 78:17
statement 6:3,4,4 5:8
 5:20,22 71:20 76:22
states 9:17,19 21:15
 22:15 35:7
stating 29:20 65:15
statute 7:12 74:19
statutory 83:13
step 43:4 71:12
steps 45:13 76:3
stick 5:10
stock 7:15,19
stop 61:20
stopped 22:22 23:5
store 24:22
street 4:7,18 52:14,15
stuff 64:15
submit 21:19 22:18
 28:16
submitted 23:11 30:3
subsequently 80:6
substantial 4:10 73:11
successful 73:22
Suite 4:18
summer 4:12,13 25:18
 25:21 26:1,5 27:8,15
 33:7,12 34:3,11 35:1
 35:5,5,9,22 37:10,16
 38:1,5,9 39:4 40:21
 42:10 47:15 49:17,19
 50:14,22 51:3 55:7
 56:22 57:22 58:16,17
 59:1 62:16 64:12
 70:22 72:3 73:14
 80:11,19
supplement 5:22
support 9:13
sworn 11:6 43:21

T

t/a 4:7
tables 24:19 35:10 50:1
 51:14,16 60:13,16,18
 60:21 61:3
taken 7:7 76:3
takes 74:6
talk 48:22
talked 17:10 34:2,4
 44:18 46:19 54:10
 55:19 57:14,15,20
talking 30:21 33:21

34:22 39:12 50:4
Task 12:14
tavern 16:10
tell 15:17 18:9 21:10
 45:17 51:22
telling 62:8
term 47:15
terms 28:7 75:19
testified 11:8 44:1
 60:12
testify 32:5
testimony 43:3 71:10
 71:22 72:10 78:5
thank 40:12,16 41:12
 43:2,13 44:3 70:7
 71:10 81:7,13 83:15
 83:17,18,19,20
Thanks 29:10 73:10
the-- 30:21 33:2
things 13:17 37:1 40:9
 45:17 57:15 58:2
 80:10
third 34:14
thought 32:18 80:5
three 8:4,5,13 28:1
 57:14 58:2,4 72:2,7
 75:20
three-quarters 29:20
tickets 14:19 16:14
tier 6:4,9 8:5,12,13
 73:19 74:3 75:3 78:14
 78:15,16
tiers 74:1,10,10,17
title 11:21
today 6:2 44:11 71:22
 74:7 80:21 83:16
told 35:9,12,14 49:20
 50:5 51:1,6,17,18,20
 58:11
total 19:7
transcript 29:7,14
 81:18,18,19,21
transfer 6:22 7:15,19
transferred 6:14,15,22
 7:4 9:2
trash 24:21,21,22
travels 8:5
try 8:18
trying 31:3,12 41:17
 73:17
Tuesday 70:15
turn 29:15
two 6:3 8:4 13:16 20:16
 22:21 48:9 49:9 64:19
 65:3,4 80:10
type 47:19
typical 52:3
typically 51:15

U

Um-hum 13:12 18:5
19:8 27:3,11 45:22
54:21 65:22

understand 9:9 10:12
31:4,13 32:1,3 49:2
62:13 68:19 69:1

understanding 35:16
47:14 54:2,15 58:21
59:16 71:4

unfortunately 7:18 10:9
14:21

upstairs 16:16

urge 77:16

use 19:18 20:21 25:14
37:16 38:8 47:8 61:3
63:2 64:13 65:18 78:6
80:21

usually 22:11

V

various 16:17 39:10

viable 45:14

violated 19:15 20:14
30:15

violation 4:13 8:8 19:11
20:12 26:19 27:7,7,12
27:16,20 30:6 35:4
62:21 63:14,20 64:2,7
75:3 78:14,15,16
79:10

violations 6:4,9 8:5,9
8:13,14,21 9:4,5,7
28:9 33:8 49:11 72:3
72:7 74:1,2 78:6
79:12 81:3

visit 12:10,13

visited 46:3,8 49:9

visiting 26:17

void 9:4

vote 82:18

W

W 4:19,20

wait 75:20

waiting 75:13

waive 81:10

walk 17:4,8

walked 14:1

wanted 12:21

warning 29:22 54:4,5
58:22 76:8,8,14,16
77:3,17 78:4,4 79:9
79:12,14 81:1

Washington 4:18

wasn't 39:5

watch 8:8 61:19

watching 61:20 62:2

way 35:17 78:3

Wednesday 4:15 58:5

week 7:14 23:9

weeks 66:20 68:4,5

welcome 71:11

went 13:1,19 16:15
19:12 24:7 36:3 37:5
56:5 58:4 65:9 66:14
68:18 72:1

weren't 19:17 25:17
75:14

whatsoever 75:12

whoops 73:9

wish 5:3,7,13,20 10:18
71:20 81:9

withdraw 33:1

witness 6:6 5:13 10:19
10:21 11:5,7,10 29:9
31:5,18,21,22 32:1,17
39:6,10,15,18 40:4,14
43:5,7,13,20,22 44:4
65:6,8 66:15,17,19
67:1,4,6,13,15,22
68:3,7,9,12,15,19
69:1,10,14,16 71:11
71:14 72:2

witnesses 71:16

woman 16:13

Woodley 13:11 17:11

word 50:11 63:2

words 30:18

work 11:18,19 55:20

worked 12:1 56:4

working 47:22

works 19:5

worry 76:1

worth 15:1

wouldn't 52:1 72:21
76:9

wrap 79:20

wristbands 14:9

written 29:22

wrong 6:13 73:9

X

Y

year 48:8,9

years 75:20

York 4:6

Z

0

1

1/21/18 78:16

10 25:8,9,10 33:11

100 40:14 44:12

11 6:6

12:55 12:9

13 62:19 63:13,17

1427 4:7

14th 4:18

15 33:11 69:9

15th 70:1

18 29:21 30:11,12

18-CMP-00032 4:9,6
82:8,11

18th 70:16

1st 23:17 67:3,5

2

2 5:7 30:13 34:13 77:8
77:12 80:14

20 14:8,10,20 28:11

2000 4:18 7:8 53:11

20009 4:18

2010 82:5,10,13 83:13

2014 54:1 72:2

2015 62:15

2016 7:1 62:20 63:13,17

2017 20:13,22 21:22
27:10 53:11 56:9 64:2
76:7

2018 4:16 7:6 12:2,8
22:6 49:2 53:19 59:11
59:14,18 64:7 65:19
69:9 76:5 80:8,9

20th 49:6

21 12:8 64:7 72:2 80:9

21st 26:18 28:2 49:1
50:19 57:9 60:7 76:12
77:20

24 53:19,22 59:11,14,17
76:5,11 80:9

24th 21:5 22:5 23:3
28:11 30:22 33:9 37:3
37:15 54:20,22 58:7
59:2 76:6 77:17

26 6:6

3

3 4:16 6:1 28:15 73:14
77:1,3

3/14/16 78:15

30 14:20 81:20,20

30,000 6:4 73:8,12,15
76:1

30th 37:20

31 80:8

31st 69:12 75:13

350 73:13

39-seat 70:22

4

4 40:20 41:5 62:15

4:24 4:2

400S 4:18

405 82:4

405(b)(13) 82:12

405(b)(4) 82:9

42 6:6

44 6:7

5

5 6:3 29:16 41:5

5:33 83:22

6

60 6:7

64 18:19 19:7,19 20:18

6A 4:8

7

7:00 70:16

70 6:7

71 6:4

75 6:4

8

80 7:2,3 44:15

9

9/4/15 78:14

90 81:22

94107 4:8

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Halftime Sports Bar (032)

Before: DCABRA

Date: 10-03-18

Place: Washington, DC

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

Neal R Gross

Court Reporter

NEAL R. GROSS

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