

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

IN THE MATTER OF:                   :  
  :  
Dos Ventures, LLC,                   :  
t/a Saint Yves                       :  
1220 Connecticut Ave NW           : Show Cause  
Retailer CT - ANC 2B               : Hearing  
License No. 99876                   :  
Case #18-CMP-00144                 :  
  :  
(Operating After Hours)           :

Wednesday  
January 16, 2019

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

PRESENT:

DONOVAN W. ANDERSON, Chairperson  
NICK ALBERTI, Member  
BOBBY CATO, JR., Member  
JAMES SHORT, Member  
MIKE SILVERSTEIN, Member  
REMA WAHABZADAH, Member

ALSO PRESENT:

WALTER ADAMS, OAG

REBECCA BARNES, OAG

EGIE DIOMI, Licensee's Counsel

KIJUN SUNG, Licensee's Counsel

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

4:31 p.m.

CHAIRPERSON ANDERSON: The first case, as I've said before is Case No. 18-CMP-00144, Saint Yves, License No. 99876.

Will the parties please approach and identify themselves for the record, please?

MS. BARNES: Rebecca Barnes and Walter Adams on behalf of the District of Columbia.

CHAIRPERSON ANDERSON: Ms. Barnes and Mr. Adams, good afternoon.

MR. SUNG: Kijun Sung for Licensee, along with Egie Diomi.

CHAIRPERSON ANDERSON: Good afternoon, Mr. Sung. Good afternoon, Mr. Shiomi?

MR. DIOMI: Diomi.

CHAIRPERSON ANDERSON: Diomi, okay. Good afternoon.

Are there any preliminary matters in this case?

MS. BARNES: No, there are not.

CHAIRPERSON ANDERSON: Are the parties

1 ready to move forward?

2 MS. BARNES: Yes.

3 CHAIRPERSON ANDERSON: Does the Government  
4 wish to -- and I guess let me ask a question. Did the  
5 parties exchange documents and witnesses seven days  
6 prior to?

7 Everybody is looking at me like they're --  
8 all right. I'm sorry.

9 MS. BARNES: The District made an attempt  
10 to. We sent those to the email address on file. That  
11 was returned to us on Monday and so we re-sent the  
12 documents at that time.

13 CHAIRPERSON ANDERSON: So Mr. Sung, did  
14 you attempt to send documents to the other side seven  
15 days prior to the hearing?

16 MR. SUNG: We have no documents.

17 CHAIRPERSON ANDERSON: You have no  
18 documents, but you do have a witness.

19 MR. SUNG: We do have a witness. I did  
20 not attempt to reach out.

21 CHAIRPERSON ANDERSON: Moving forward and  
22 I've let all parties know, for a show cause hearing,

1 I expect the parties to disclose the documents and  
2 witnesses seven days prior to because I don't want to  
3 have a hearing and I don't know what the documents  
4 are. I don't know what the witnesses are. And folks  
5 don't know who is going to testify. So if I did not  
6 do that in the show cause hearing status that was my  
7 fault. But you're now on notice that moving forward  
8 any previous hearings that you have that comes to a  
9 show cause hearing, I expect both parties to disclose  
10 their documents and witnesses seven days prior to the  
11 hearing. And if that's not done, then unless either  
12 side can show good cause, I'm not going to allow the  
13 documents and witnesses to be testified unless notice  
14 is provided, so both parties are on notice.

15 MR. SUNG: Yes, sir.

16 CHAIRPERSON ANDERSON: Does the Government  
17 wish to do an opening statement.

18 MS. BARNES: Yes, the Government does.

19 CHAIRPERSON ANDERSON: Go ahead, ma'am.

20 OPENING STATEMENT OF REBECCA BARNES, ESQ.

21 ON BEHALF OF THE GOVERNMENT

22 MS. BARNES: Good afternoon, members of

1 the Board. On Wednesday, May 23rd, 2018, Saint Yves,  
2 an ABRA licensed established, operated after its  
3 licensed hours when it allowed numerous patrons to  
4 continue consuming alcohol after the 2 a.m. closing  
5 time.

6 Today, you're going to hear from ABRA  
7 Investigator Countee Gilliam, who visited the  
8 establishment after its sales and operation hours had  
9 ended and hear how he witnessed several patrons still  
10 on the premises, drinks in hand, consuming alcohol.

11 You will hear how he reviewed the license,  
12 confirmed the violation, and subsequently notified the  
13 ABC manager on duty of that violation.

14 And you will also hear how more than 30  
15 minutes after that scheduled closing time, patrons  
16 were still leaving the premises. Thank you.

17 CHAIRPERSON ANDERSON: Do you wish to make  
18 an opening statement now or you wish to reserve.

19 MR. SUNG: In the interest of keeping a  
20 promise to keep this short, we'll waive our opening.  
21 Thank you.

22 CHAIRPERSON ANDERSON: Thank you. Does

1 the Government have its first witness?

2 MS. BARNES: Yes, we'd like call  
3 Investigator Gilliam to the stand, please?

4 CHAIRPERSON ANDERSON: Thank you.

5 WHEREUPON,

6 COUNTEE GILLIAM

7 WAS CALLED FOR EXAMINATION BY COUNSEL FOR THE  
8 GOVERNMENT AND, HAVING FIRST BEEN DULY SWORN, WAS  
9 EXAMINED AND TESTIFIED AS FOLLOWS:

10 DIRECT EXAMINATION.

11 BY MS. BARNES:

12 Q Good afternoon, Investigator Gilliam.  
13 Will you please state your name again and spell it for  
14 the record, please?

15 A It's Countee Gilliam, C-O-U-N-T-E-E G-I-L-  
16 L-I-A-M.

17 Q Are you currently employed?

18 A Yes, ma'am.

19 Q Where are you currently employed?

20 A For the Alcoholic Beverage Regulation  
21 Administration.

22 Q And what is your title?



1           A       I am investigator.

2           Q       How long have you worked for ABRA?

3           A       Going on three and a half years.

4           Q       And how long have you been an investigator  
5 with ABRA?

6           A       That entire duration.

7           Q       What are your primary job responsibilities  
8 as an investigator?

9           A       To conduct investigations and inspections  
10 of ABC licensed establishments throughout the District  
11 of Columbia.

12          Q       And do you typically write investigative  
13 reports after you conduct investigations?

14          A       Yes, ma'am.

15          Q       I'd like to mark the report in the matter,  
16 18 CMT 0144 for identification.

17                   CHAIRPERSON ANDERSON:    Sure.

18                   (Whereupon, the above-referred to  
19 document was marked as Government Exhibit  
20 1 identification.)

21                   MS. BARNES:    Do you have a copy of this?

22                   MR. SUNG:     I do.

1 MS. BARNES: May I have permission to  
2 approach?

3 CHAIRPERSON ANDERSON: Sure.

4 BY MS. BARNES:

5 Q Investigator Gilliam, are you familiar  
6 with this document?

7 A Yes, ma'am.

8 Q And how are you familiar with this  
9 document?

10 A This is the case report I did upon  
11 completing my investigation of the establishment.

12 Q And is there anything that you'd like to  
13 say about this report?

14 A Yes, ma'am. On page 2 of the report, in  
15 the first paragraph, I stated in the report that I  
16 advised Mr. Diomi that the Board approved hours of  
17 sales referred to the sales, service, and consumption.  
18 That was an erroneous statement. The hours of sale,  
19 the Board approved hours of sale referred to the sales  
20 and service.

21 Q Okay. Are you familiar with an ABC  
22 establishment by the name of Saint Yves?

1           A       Yes, ma'am.

2           Q       Did you have occasion to visit Saint Yves  
3 on Wednesday, May 23rd, 2018 at approximately 2:10  
4 a.m.

5           A       Yes, ma'am.

6           Q       What was the purpose of your visit that  
7 day?

8           A       Well, I was conducting after-hours  
9 monitoring of ABC licensed establishments and I came  
10 across Saint Yves and I observed a security station  
11 outside with patrons exiting out the establishment.

12          Q       And what did that indicate to you?

13          A       That indicated to me that I needed to  
14 proceed inside the establishment to make sure it was  
15 closed and they weren't operating after hours.

16          Q       What happened when you entered?

17          A       When I entered the establishment, I  
18 observed multiple patrons with alcoholic beverages.  
19 Some patrons were consuming those alcoholic beverages.

20                 I observed patrons congregating inside the  
21 establishment and a majority of the patrons was  
22 talking amongst each other and they was looking at a

1 video screen of a video being played.

2 Q Do you know how many patrons were present?

3 A I don't have the exact count, but I would  
4 say no more than 70 and no less than 50.

5 Q And how did you know that these were  
6 patrons?

7 A Just by the way they were dressed, by  
8 their behaviors. While they was inside, they were  
9 congregating amongst each other. They wasn't acting  
10 as employees.

11 Q I'd like to mark Exhibit 1A into evidence.  
12 (Whereupon, the above-referred to  
13 document was marked as Government Exhibit  
14 1A for identification.)

15 CHAIRPERSON ANDERSON: What is the exhibit  
16 at 1A?

17 MS. BARNES: It is the first video  
18 attached to the report.

19 Board's indulgence.

20 (Pause.)

21 I'll proceed with the questioning, while  
22 my colleague tries to get this thumb drive to work

1 here.

2 BY MS. BARNES:

3 Q All right, so to go back to where we were  
4 before, you observed numerous patrons inside the  
5 establishment. What were those patrons doing?

6 A Like I mentioned, they was congregating  
7 inside, talking amongst themselves. Some people were  
8 consuming alcoholic beverages and it was no attempt  
9 made by employees to actually get the patrons outside  
10 when I arrived at the establishment.

11 Q And can you describe their behavior?

12 A Like I said, they was congregating inside,  
13 had alcoholic beverages in hand. Some people were  
14 consuming alcoholic beverages and some people were  
15 listening to a video being played on a big screen TV.

16 Q And how did you know they were consuming  
17 alcoholic beverages?

18 A I witnessed it not only personally, but I  
19 was able to capture somebody consuming a beverage, an  
20 alcoholic beverage on video.

21 Q Okay. Turning to what we've marked as  
22 Exhibit 1A for identification.

1 (Video recording played.)

2 BY MS. BARNES:

3 Q Are you familiar with this video?

4 A Yes, ma'am.

5 Q How are you familiar with this video?

6 A I'm the one who took it.

7 Q And is it an accurate representation of  
8 what you saw when you entered the establishment that  
9 night?

10 A Yes, ma'am. That's correct.

11 Q Let's play the video very quickly. Can  
12 you describe for me what you see here?

13 A That's a gentleman holding a glass which  
14 in my opinion is an alcoholic beverage.

15 Q And for the record this is three seconds  
16 into Video 1A.

17 This is nine seconds into Video 1A. Can  
18 you describe for me what you see here?

19 A A gentleman holding an alcoholic beverage.

20 Q Okay, we are at 31 seconds into the video.  
21 Can you describe for me what you see here?

22 A I see two females dressed in what appears

1 to be black dresses. They're holding alcoholic  
2 beverages.

3 Q Are these patrons?

4 A Yes, ma'am.

5 Q And is this is an accurate representation  
6 of what you saw?

7 A Yes, ma'am.

8 Q This is 34 seconds into the video. Can  
9 you describe for me what you see here?

10 A If you look towards the top of the screen  
11 I will say almost to the middle, you see a lady in the  
12 back. It appears she has like some type of white tank  
13 top and she's actually consuming an alcoholic  
14 beverage.

15 CHAIRPERSON ANDERSON: Let me ask you, is  
16 the video that you guys are looking at out there is it  
17 clear because all I see in the video is I -- all I see  
18 is there's a shoulder, so I'm not sure.

19 What is it that you guys are looking at  
20 out there? I don't know. I'm not sure if on my  
21 screen here is different from what you guys are  
22 seeing.

1 BY MS. BARNES:

2 Q Investigator Gilliam, could you point to  
3 the woman that you're describing?

4 A This lady right here.

5 CHAIRPERSON ANDERSON: Are you able to  
6 point using the clicker on your screen what is it that  
7 he's pointing at? I can't see what he's pointing at.

8 No, I'm saying are you able to point using  
9 your --

10 MR. ADAMS: She's getting -- there it is.

11 CHAIRPERSON ANDERSON: Where? Okay, using  
12 your -- okay, all right.

13 BY MS. BARNES:

14 Q And Investigator Gilliam, you've witnessed  
15 this as well when you were at the establishment?

16 A Yes, ma'am.

17 Q And we are 37 seconds into that video.  
18 Can you describe to me what you see there?

19 A If you look, this is a patron, a female  
20 patron, she's actually sitting on a ledge. If you're  
21 going to use the clicker, we're talking about the lady  
22 right here. To the left of her, she has an Ace of



1 Spades bottle which is an alcoholic beverage.

2 Q For the record, can you describe what this  
3 woman is wearing?

4 A From my review, she's wearing like a pink  
5 top and khaki pants.

6 Q Is this where we're pointing the clicker  
7 right now?

8 A Yes, ma'am. That's correct.

9 Q Okay. I'd like to mark what's been  
10 identified in the report as Exhibit 1B for  
11 identification.

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

15 We'll move forward in the interest of time  
16 and if we can get this to work, we'll come back to it.

17 Did you take a second video?

18 A Yes, ma'am. That's correct.

19 Q And is that what's identified in the  
20 report as Exhibit 1B?

21 A Yes, ma'am. That's correct.

22 Q After observing the patrons you just

1 described, what did you do next?

2 A The next thing I did I identified to  
3 several employees and asked to speak to an ABC manager  
4 or owner of the establishment.

5 Q And what happened after that?

6 A It took approximately about seven minutes,  
7 and then I was approached by Mr. Diomi who identified  
8 himself as the ABC manager and then I identified  
9 myself as an ABRA investigator.

10 Q What did you do next?

11 A Next, I asked him to review -- I asked to  
12 see the establishment's ABC license which was provided  
13 to me and on the license it stated that their Board-  
14 approved hours of operations, Board-approved hours of  
15 sale ended at 2 o'clock.

16 I advised Mr. Diomi was he aware of his  
17 operation and sales hours? And he advised me that  
18 this was his first night working.

19 Q What did you do at that point?

20 A At that point, I told him -- Mr. Diomi  
21 made the comment that they didn't serve any alcohol  
22 after 2 o'clock and that's when I spoke to him about

1 the consumption. I advised him that you're allowing  
2 the consumption of alcoholic beverages past 2 o'clock  
3 which is a violation.

4 Q Did he respond?

5 A He listened. He said okay. He was just  
6 adamant about that he didn't sell anything after 2  
7 o'clock, after 2 a.m.

8 Q Did he offer anything related to the  
9 consumption?

10 A He stated, the only thing he stated was  
11 that they didn't sell any alcoholic beverages and at  
12 that point I told him but you're still allowing the  
13 consumption of alcoholic beverages and he didn't say  
14 anything to dispute that, to dispute that statement.

15 Q Did you notice any other violations during  
16 the visit to the establishment?

17 A Not at that time, no, ma'am.

18 Q We're going to turn very briefly back to  
19 what we previously identified as Exhibit 1B to the  
20 report.

21 (Pause.)

22 Are you familiar with this video?

1 A Yes, ma'am.

2 Q And how are you familiar with this video?

3 A Because I'm the one that took it.

4 Q And when did you take this video?

5 A When I was at the establishment on  
6 Wednesday, the 23rd at approximately 2:11, Wednesday,  
7 May 23rd, 2018.

8 Q All right. The video is paused at one  
9 second into the video. Can you describe for me what  
10 you see?

11 A At that point in time, I observed a female  
12 patron holding an alcoholic beverage.

13 Q At approximately 13 seconds into Exhibit  
14 1B, what did you see?

15 A I observed a male patron with an alcoholic  
16 beverage in his hand.

17 (Pause.)

18 Q One moment please. I'm moving to 35  
19 seconds into the video here.

20 After your visit to the establishment, did  
21 you notice any other violations?

22 A No, ma'am. I did not. I came back and --

1 well, can you repeat the question? I want to make  
2 sure I'm clear.

3 Q After you visited the establishment on May  
4 23rd, did you notice any other violations during your  
5 visit?

6 A Well, not at that time. I know when I did  
7 exit the establishment, it was approximately 2:31 and  
8 I took another video to show that the establishment  
9 was still operating and in that video you see people  
10 coming outside the establishment and them standing in  
11 front of the establishment. This was approximately  
12 2:31 a.m.

13 MS. BARNES: I'd like to mark the video  
14 attached to the report as Exhibit 1C for  
15 identification and I'm going to play that video now.

16 (Whereupon, the above-referred to  
17 document was marked as Government Exhibit  
18 1C for identification.)

19 MR. SUNG: I'm going to object as to any  
20 other violations, alleged violations. We're not here  
21 for any other violations aside from serving and  
22 allowing service after hours.

1                   CHAIRPERSON ANDERSON: Why is this  
2 relevant, ma'am?

3                   MS. BARNES: Because the charge is  
4 operating after hours.

5                   CHAIRPERSON ANDERSON: I'm looking at the  
6 charge, but this video is going to show something  
7 going on outside the establishment?

8                   MS. BARNES: Yes, the video will show the  
9 numerous patrons basically in no hurry to leave more  
10 than 30 minutes afterwards.

11                   CHAIRPERSON ANDERSON: The purpose of the  
12 video is just to show that at 2:30 that folks were  
13 still leaving the establishment?

14                   MS. BARNES: Correct.

15                   CHAIRPERSON ANDERSON: All right, then I'm  
16 going to overrule the objection. Go ahead.

17                   BY MS. BARNES:

18                   Q       Are you familiar with this video?

19                   A       Yes, ma'am.

20                   Q       And how are you familiar with this video?

21                   A       I'm the one that took it.

22                   Q       And what does it show?

1           A       It just shows patrons loitering outside  
2 the front of the establishment and in the video, you  
3 can actually see patrons still exiting the  
4 establishment.

5           Q       And approximately when was this video  
6 taken?

7           A       That was approximately at 2:31 a.m. on  
8 Wednesday, the 23rd, Wednesday, May 23rd, 2018.

9           Q       And in this video, where is the entrance  
10 to the establishment?

11          A       Right here. And if you can see you've got  
12 people coming out.

13          Q       Is there where the round door is?

14          A       When you say round door, point to --

15          Q       Brown door, sorry.

16          A       Brown door. Yes, ma'am.

17          Q       What did you do after you concluded this  
18 inspection?

19          A       I believe on the following day, Tuesday,  
20 I'm sorry, on May -- give me a second. On May 28th,  
21 I returned to the establishment and conducted a  
22 regulatory inspection. And during the regulatory

1 inspection, I advised them of the violation that was  
2 observed on Wednesday, May 23rd, 2018.

3 Q Okay. And did you have an opportunity to  
4 review ABRA's records?

5 A Yes, ma'am. I did on the 29th of May.

6 Q And did this review reveal anything to  
7 you?

8 A It didn't reveal any violations. It  
9 revealed that the establishment had a settlement  
10 agreement, but did not have a security plan.

11 Q I would like to direct your attention what  
12 is marked as Exhibit 4 to the report.

13 (Whereupon, the above-referred to  
14 document was marked as Government Exhibit  
15 4 for identification.)

16 Is that an accurate copy of the  
17 settlement? Are you familiar with this document?  
18 Sorry.

19 A Yes, ma'am. That's correct.

20 Q And then I'd like to direct your attention  
21 to what is marked as Exhibit 2 to your report.

22 (Whereupon, the above-referred to



1 document was marked as Government Exhibit  
2 for identification.)

3 Are you familiar with this document?

4 A Yes, ma'am.

5 Q What is this document?

6 A This is a copy of the establishment's  
7 alcohol license, their ABC license.

8 Q Did you review this document as well?

9 A Yes, I did.

10 Q What did your review reveal to you?

11 A That the Board-approved hours of  
12 operation, their Board-approved hours of sale for  
13 Tuesdays was from 10 a.m. to 2 a.m.

14 MS. BARNES: I'd like to move the case  
15 report for 18 CMT 0144 into evidence.

16 MR. SUNG: No objection.

17 CHAIRPERSON ANDERSON: So moved.

18 (Whereupon, the above-referred to  
19 documents were received into evidence as  
20 Government Exhibit 1, 1A, 1B, 1C, 2, and  
21 4.)

22 CHAIRPERSON ANDERSON: Do you have any

1 other questions for the witness?

2 MS. BARNES: I do not. The videos are  
3 attached to this report and are included in the  
4 document as well.

5 CHAIRPERSON ANDERSON: All right, so  
6 moved.

7 MS. BARNES: The Government has no further  
8 questions.

9 CHAIRPERSON ANDERSON: All right, thank  
10 you.

11 Your witness, Mr. Sung.

12 MR. SUNG: Thank you.

13 CROSS EXAMINATION

14 BY MR. SUNG:

15 Q Mr. Gilliam, good afternoon. I didn't  
16 hear what you said earlier. You said there was an  
17 error on your page report. Can you tell us what  
18 you're talking about?

19 A I made a statement to Mr. Diomi relating  
20 to the Board-approved hours of sales where I told him  
21 that it relates to the sales, service, and also the  
22 consumption of alcoholic beverages.

1 Q And what was the error?

2 A As it relates to the hours of sale, that  
3 doesn't relate specifically to the consumption of  
4 alcoholic beverages.

5 Q I don't think I understand.

6 A That's a separate violation. When I  
7 advised Mr. Diomi of the Board-approved hours of  
8 sales, when I included consumption, it shouldn't have  
9 been included in that sentence. That's a different  
10 violation.

11 Q Understood. Thank you. Mr. Gilliam,  
12 you've been to Saint Yves before?

13 A Yes, sir.

14 Q Are you familiar with the capacity of the  
15 club?

16 A Capacity as it relates to the total  
17 approved capacity?

18 Q Occupancy, yes.

19 A Not at this time, no, sir.

20 Q Would it surprise that it's 250 plus?

21 A No, that would surprise me.

22 Q When you arrived, when you entered, it was

1 more than half empty, isn't that correct?

2 A I would say so, yes.

3 Q And when you arrived you stated that you  
4 saw patrons exiting the club. You didn't see anyone  
5 going into the club, correct?

6 A No, sir.

7 Q And when you arrived, the lights were on,  
8 right? In the video, the lights were on.

9 A Yes, sir.

10 Q And the DJ wasn't playing, correct?

11 A No, sir.

12 Q The only thing you saw was the video  
13 playing on the screen, and there was no sound,  
14 correct?

15 A It was music playing.

16 Q It was music playing?

17 A It was music playing and I didn't see a DJ  
18 playing, so I assume it was coming from the big screen  
19 TV.

20 Q The bartenders were cleaning up?

21 A No, not to my knowledge. If I remember,  
22 if I recall correctly, I saw one bartender actually --

1 I would say closing out receipts like closing the  
2 drawer out.

3 Q So the bartenders were closing out, not  
4 cleaning up?

5 A They wasn't cleaning up.

6 Q They weren't serving?

7 A No, sir.

8 Q The club looked like it was closing up,  
9 correct?

10 A I would say no, simply based on the fact  
11 because patrons were still inside consuming alcoholic  
12 beverages, so I would have to say no.

13 Q In your experience, have you ever been to  
14 a nightclub where the lights are full on? Do you  
15 consider that in operation?

16 MS. BARNES: Objection, cumulative.

17 CHAIRPERSON ANDERSON: I'm sorry, I didn't  
18 hear the objection.

19 MS. BARNES: I'm sorry, objection,  
20 cumulative.

21 MR. SUNG: I haven't asked him this  
22 question. I'm asking has he ever been to a nightclub

1 where the lights are fully on.

2 CHAIRPERSON ANDERSON: I don't understand  
3 the nature of the objection, so I'm going to overrule  
4 the objection. Go ahead, answer the question if you  
5 can.

6 THE WITNESS: Could you repeat the  
7 question for me?

8 BY MR. SUNG:

9 Q You've never been to a nightclub in the  
10 late hours of the evening where they have the lights  
11 fully on in operation, have you?

12 A When you characterize it that way, no,  
13 sir.

14 Q Thank you. Now you testified and we saw  
15 on the video numerous patrons with cups in their hand.  
16 You didn't actually taste the beverages, correct?

17 A No, sir.

18 Q You did not smell the beverages, correct?

19 A No, sir.

20 Q You did not ask them what kind of  
21 beverages were in their hands, correct?

22 A No, sir.

1           Q       And with regard to the champagne bottle  
2           that you testified, you didn't go and determine  
3           whether it was empty or full, correct?

4           A       No, sir.

5           Q       Now are you familiar with the concept of  
6           a graduated closing?

7           A       Yes, sir. I am.

8           Q       Are you familiar with Mr. Shawn Townsend?

9           A       Yes, I am.

10          Q       He was your supervisor last year, correct?

11          A       That's correct.

12          Q       And didn't you, in fact, have a meeting  
13          where it was determined that as a matter of policy  
14          ABRA would not be prosecuting -- that the agents, that  
15          the investigators would not be prosecuting clubs for  
16          a graduated closing, that is to say, if they're no  
17          longer serving and they're in the process of having  
18          the patrons exit in a gradual manner versus having 200  
19          people flood the streets at the same time, that you  
20          would not be finding violations for operating after  
21          hours or allowing consumption after hours. Isn't that  
22          correct?

1 MS. BARNES: Objection.

2 THE WITNESS: No, sir. That's not  
3 correct.

4 MR. SUNG: That is not correct?

5 CHAIRPERSON ANDERSON: There is an  
6 objection. When there's an objection, Mr. Gilliam --

7 THE WITNESS: I tried to stop when I heard  
8 it. I'm sorry.

9 CHAIRPERSON ANDERSON: You're not supposed  
10 to answer the question. What's the nature of your  
11 objection.

12 MS. BARNES: It's beyond the scope.

13 MR. SUNG: It goes to the heart of the  
14 violation that's being alleged.

15 MEMBER SILVERSTEIN: Please speak a little  
16 louder, sir.

17 MR. SUNG: This goes to the heart of the  
18 violation being alleged in this case.

19 MEMBER SILVERSTEIN: Thank you.

20 CHAIRPERSON ANDERSON: I'll allow the  
21 question, but I'm not quite sure -- I'm not aware of  
22 the policy and maybe someone can tell me if there's



1 any such ABRA policy, but if you can answer the  
2 question, then you can. I'm going to overrule the  
3 objection.

4 THE WITNESS: Like I answered, no, sir.

5 BY MR. SUNG:

6 Q Was there any discussion concerning citing  
7 licensees for violation of after-hours operation in  
8 this context, in a similar context?

9 A No, sir.

10 Q In your experience of being an  
11 investigator and observing operations at nightclubs,  
12 would you prefer to see 200 patrons flood the  
13 sidewalks immediately after closing or would you  
14 rather see the patrons proceed gradually out of the  
15 venue?

16 MS. BARNES: Objection, speculation.

17 MR. SUNG: This isn't speculation. I'm  
18 asking him what his preference is as an experienced  
19 ABRA investigator.

20 MS. BARNES: And argumentative as well.

21 MR. SUNG: This is a cross examination.

22 CHAIRPERSON ANDERSON: I'll overrule the

1 objection. If you can answer the question, sir,  
2 answer the question if you can.

3 THE WITNESS: Can you repeat the question.

4 BY MR. SUNG:

5 Q Yes, in your experience as an investigator  
6 for ABRA and observing nightclubs and their  
7 operations, is it your preference to have 200 patrons  
8 immediately flood the sidewalk versus having them exit  
9 the club gradually?

10 A As it relates to that, I don't have a  
11 preference on way or the other.

12 Q Thank you. When you were inside the club,  
13 you did observe security attempting to marshal  
14 customers out of the club, did you not?

15 A If I recall, this was after I started  
16 talking to Mr. Diomi and after I explained the  
17 violations to him, that's when that started to occur.

18 Q Thank you. Are you aware whether security  
19 or any employees at a nightclub are allowed to  
20 physically seize drinks from customers?

21 A Am I aware?

22 Q Yes.

1           A       When it comes to enforcement of law, based  
2 on my experience, yes.

3           Q       Yes. Okay. Thank you. That's all the  
4 questions I have.

5                   CHAIRPERSON ANDERSON: Any questions by  
6 any board members?

7                   Yes, Mr. Short.

8                   MEMBER SHORT: Good afternoon, Inspector  
9 Gilliam.

10                   Inspector Gilliam, in regards to sales,  
11 service, and consumption, what exactly does the code  
12 say about closing time related to that?

13                   THE WITNESS: As it relates to this  
14 establishment, the Board-approved hours for the  
15 establishment is at 2 o'clock. So at 2 o'clock that  
16 means that the hours of operation everybody has to be  
17 out. So at 2 o'clock there shouldn't be nobody in  
18 there with the exception of employees. They're doing  
19 clean-up duties. As it relates to the Board-approved  
20 hours of sales, you cannot sell or serve alcoholic  
21 beverage after 2 o'clock.

22                   Now as it relates to the consumption of

1 alcoholic beverages, there's a statute -- it's a DCMR  
2 violation where past 2 o'clock on Sundays through  
3 Thursdays, you cannot allow the consumption of  
4 alcoholic beverages past 2 a.m.

5 MEMBER SHORT: Okay, in the code and also  
6 in the vernacular of your job description what is  
7 "last call"?

8 THE WITNESS: Last call is usually a  
9 procedure that establishes -- executed 15 minutes  
10 prior to the Board-approved hours of sales and then to  
11 give themselves time to actually stop serving at 2  
12 o'clock and/or actually close at 2 o'clock.

13 MEMBER SHORT: So last call apparently was  
14 not done in this case?

15 MR. SUNG: Objection, completely  
16 mischaracterizes the testimony.

17 CHAIRPERSON ANDERSON: Mr. -- why don't  
18 you rephrase your question, Mr. Short?

19 MEMBER SHORT: Okay. Had last call been  
20 done 15 minutes before 2 o'clock closing time for this  
21 establishment, were people still walking around with  
22 drinks or going to the bar?

1 MR. SUNG: Objection, lacks foundation.  
2 He wasn't there before 2 a.m. Completely calls for  
3 speculation.

4 CHAIRPERSON ANDERSON: I'm going to  
5 overrule the objection.

6 You can answer the question, Mr. Gilliam.  
7 If you can't answer, you can't answer.

8 THE WITNESS: I didn't witness give a last  
9 call when I was inside the establishment.

10 MEMBER SHORT: So when you were there,  
11 after 2 a.m., you observed the law and rules of ABRA  
12 being broken?

13 THE WITNESS: Yes, sir. That's correct.

14 MEMBER SHORT: That's all I have, Mr.  
15 Chair. Thank you very much.

16 CHAIRPERSON ANDERSON: Any other questions  
17 by any other board members?

18 Mr. Jung, any questions of the witness  
19 based on the question that was asked by Mr. short?

20 MR. SUNG: It's Sung. I have no  
21 questions.

22 CHAIRPERSON ANDERSON: Ms. Sung. I

1 apologize, Mr. Sung.

2 MR. SUNG: It's okay.

3 CHAIRPERSON ANDERSON: Ms. Banks?

4 MS. BARNES: Barnes.

5 CHAIRPERSON ANDERSON: Barnes. You know,  
6 I'm bad with names. Everybody knows that. At least  
7 I'm batting 100 percent today.

8 Ms. Barnes, do you have any questions of  
9 the witness based on the question that was asked by  
10 Mr. Short?

11 MS. BARNES: Just very briefly.

12 REDIRECT EXAMINATION

13 BY MS. BARNES:

14 Q Investigator Gilliam, how should an  
15 establishment deal with drinks near the time of  
16 closing?

17 A The procedure I like to educate -- like to  
18 see is when you get to -- if your Board approved hours  
19 of sale is 2 a.m., at 1:45 you should do a last call.  
20 So by the time it gets to 2 o'clock, your security  
21 staff should be going around or whatever employee you  
22 designate, going around making sure people are

1 discarding alcoholic beverages and leaving outside of  
2 the establishment.

3 Q And whose responsibility is it to ensure  
4 that a licensed establishment is not allowing  
5 consumption or patrons still present after the time of  
6 closing?

7 A The actual licensee, the owner of the  
8 alcohol license either or ABC manager who is in charge  
9 of that establishment at the time for it to delegate  
10 it to employees that fall under their command.

11 Q I have no further questions.

12 CHAIRPERSON ANDERSON: Thank you, Mr.  
13 Gilliam, for your testimony, You can step down.

14 (Witness excused.)

15 Does the Government have another witness?

16 MS. BARNES: No.

17 CHAIRPERSON ANDERSON: Does the Government  
18 rest?

19 MS. BARNES: Yes.

20 CHAIRPERSON ANDERSON: All right, Mr.  
21 Jung, do you have any witnesses?

22 MR. SUNG: Sung. Yes, we do.

1                   CHAIRPERSON ANDERSON: Let me apologize.  
2 I'm looking my document here and I thought I was doing  
3 a good job. It says Mr. Kisun Jung. It's written  
4 wrong in our -- it's Mr. Sung.

5                   MR. SUNG: Yes, sir.

6                   CHAIRPERSON ANDERSON: I wrote Sung but  
7 then I looked at my little cheat sheet and it says  
8 something else so I apologize, but it will not happen  
9 again. All right.

10                  MR. SUNG: No worries. We call Egie  
11 Diomi.

12                  CHAIRPERSON ANDERSON: Mr. Diomi. Stand,  
13 please, sir.

14 WHEREUPON,

15   EGIE DIOMI

16 WAS CALLED FOR EXAMINATION BY COUNSEL FOR THE LICENSEE  
17 AND, HAVING FIRST BEEN DULY SWORN, WAS EXAMINED AND  
18 TESTIFIED AS FOLLOWS:

19                  CHAIRPERSON ANDERSON: And please when you  
20 speak, pull the microphone close to your mouth.

21                  THE WITNESS: Sure.

22                  CHAIRPERSON ANDERSON: Go ahead, sir.



## 1 DIRECT EXAMINATION

2 BY MR. SUNG:

3 Q Mr. Diomi, could you spell your name for  
4 the record?5 A Yes. First name, E-G-I-E. And last name  
6 D-I-O-M-I.7 Q Thank you. What is your occupation,  
8 currently?

9 A I'm a general manager for Saint Yves.

10 Q How long have you been in that role?

11 A About a year and a half.

12 Q Were you working on the night in question,  
13 May 22nd and the early hours of May 23rd?

14 A Yes, sir. I was.

15 Q And do you recall -- what is your job in  
16 relation to the service of alcohol at Saint Yves?17 A I'm the ABC manager and I basically am in  
18 charge of the bartenders, our servers, and also part  
19 of security.20 Q Understood. Do you recall when last call  
21 was that evening?

22 A Yes.

1 Q What time was it?

2 A 1:45 a.m.

3 Q Was there any alcohol served after 1:45  
4 a.m.?

5 A No.

6 Q Do you recall your encounter with Mr.  
7 Gilliam?

8 A Yes.

9 Q At that time was the club in operation?  
10 Was it -- strike that.

11 At that time, were there any attempts by  
12 the employees to get the patrons out of the club?

13 A Yes.

14 Q What were they doing?

15 A So basically we do it gradually, so we  
16 remove all the drinks, you know, cups, bottles. We  
17 turn off the music. The DJ stops playing. The DJ  
18 actually informs the customers that the club is  
19 closed. We turn on the lights and then security walks  
20 around telling customers to finish up their drinks and  
21 to exit the establishment.

22 Q Do you direct the employees to ever seize

1 cups from the customers hands?

2 A No, sir.

3 Q And why is that?

4 A Mainly because -- we try not to get  
5 involved into any type of physical confrontation with  
6 customers. We use verbal commands with customers,  
7 mainly because at that time that can create a hostile  
8 reaction from customers that can escalate. So we  
9 would rather use verbal commands than actually  
10 physically taking anything from customers.

11 Q Thank you. I have no further questions.

12 CHAIRPERSON ANDERSON: Ms. Barnes?

13 MS. BARNES: Board's indulgence. The  
14 District has no further questions.

15 CHAIRPERSON ANDERSON: Any questions from  
16 any board members?

17 Mr. Short.

18 MEMBER SHORT: Good evening, Mr. Diomi.

19 THE WITNESS: Good evening, sir.

20 MEMBER SHORT: Okay, what is your normal  
21 procedure to abide by the ABRA laws on sales and  
22 service?

1 THE WITNESS: In regards to --

2 MEMBER SHORT: The law --

3 THE WITNESS: General --

4 MEMBER SHORT: The law. The law.

5 THE WITNESS: We follow -- I mean we  
6 educate all our employees on all the laws and the  
7 procedures of ABRA.

8 MEMBER SHORT: On the morning of  
9 Wednesday, May 23rd, 2018 at approximately 2:10 a.m.  
10 were people still consuming alcohol in your  
11 establishment?

12 CHAIRPERSON ANDERSON: Hold on a minute,  
13 Mr. Short.

14 If anyone has any electronic devices,  
15 pagers or such, I'm asking that you either put them on  
16 silent or turn them off, please. Okay?

17 All right, go ahead.

18 THE WITNESS: I can't say for sure because  
19 we sell other than alcohol. We sell other beverages,  
20 so I can't say for certain.

21 MEMBER SHORT: Sir, sir, sales, service,  
22 and consumption. It doesn't say alcohol. It says

1 consumption.

2 MR. SUNG: Objection, mischaracterizing  
3 the law here.

4 MEMBER SHORT: That is the law.

5 MR. SUNG: The law is consumption of  
6 alcoholic beverages.

7 MEMBER SHORT: Okay. Service. After 2  
8 a.m., was anyone served alcohol in your establishment?

9 THE WITNESS: No, they don't.

10 MEMBER SHORT: Was anyone consuming  
11 alcohol in your establishment?

12 THE WITNESS: Again, I can't answer that  
13 because I did not actually physically inspect what  
14 they were consuming, so I can't answer that.

15 MEMBER SHORT: Whose responsibility is it  
16 to see that no one does consume alcohol after 2 a.m.?

17 THE WITNESS: It's mine.

18 MEMBER SHORT: No further questions, Mr.  
19 Chair.

20 CHAIRPERSON ANDERSON: All right, Mr.  
21 Diomi -- any other questions?

22 Go ahead, Mr. Alberti.

1 MEMBER ALBERTI: Mr. Diomi, is that the  
2 name?

3 THE WITNESS: Yes.

4 MEMBER ALBERTI: Mr. Diomi, we've heard  
5 testimony that there were to 50 to 70 people in there  
6 at about 2:11 a.m. on the night in question. Does  
7 that sound accurate?

8 THE WITNESS: Yes.

9 MEMBER ALBERTI: Okay. Disregarding this  
10 night, typically, do you have 50 to 70 people in your  
11 establishment whether or not they're consuming alcohol  
12 or not, how long does it take you to get them out --  
13 everybody out of the establishment?

14 THE WITNESS: Okay, a typical night, we  
15 have over 200 customers.

16 MEMBER ALBERTI: No, 50 to 70 people. If  
17 you have 50 to 70 people --

18 THE WITNESS: Yes.

19 MEMBER ALBERTI: At 2 o'clock, just  
20 theoretical, 2 o'clock, you have 50 to 70 people,  
21 typically, how long would it take you to get them out  
22 of the restaurant?

1 THE WITNESS: I would say about 10, 15.

2 MEMBER ALBERTI: Ten, 15 minutes?

3 THE WITNESS: Yes.

4 MEMBER ALBERTI: Starting at 2 o'clock?

5 THE WITNESS: Okay, I'm not sure I

6 understand the question because it's a process.

7 MEMBER ALBERTI: You have 50 to 70 -- it's  
8 very clear. You have 50 to 70 people at 2 o'clock in  
9 your establishment. They're consuming beverages,  
10 alcoholic beverages or whatever. How long does it  
11 typically, your experience -- am I correct you're  
12 experienced?

13 THE WITNESS: Yes.

14 MEMBER ALBERTI: How long does it  
15 typically take to clear the establishment of all  
16 patrons?

17 THE WITNESS: Ten to 15 minutes.

18 MEMBER ALBERTI: Ten to 15 minutes. Thank  
19 you. Mr. Gilliam came in at approximately 2:11.  
20 Would you agree?

21 THE WITNESS: Correct.

22 MEMBER ALBERTI: And his report says about

1 seven minutes later, he spoke to you. Would you agree  
2 that he spoke to you probably after 2:15?

3 THE WITNESS: Correct.

4 MEMBER ALBERTI: Thank you. And you saw  
5 the video. Would you agree that that's what it looks  
6 like at 2:15?

7 THE WITNESS: On the video I saw actually  
8 customers leaving.

9 MEMBER ALBERTI: At 2:15, you saw the  
10 video. It was even later than 2:15, but it was after  
11 2:15 you saw a video. Would you agree that that's  
12 what the establishment looked like in the terms of the  
13 number of people there?

14 THE WITNESS: Looked like what? Like 50  
15 people?

16 MEMBER ALBERTI: You saw the video?

17 THE WITNESS: Yes.

18 MEMBER ALBERTI: Do you think the video  
19 shows something that wasn't there or was that what was  
20 there that evening?

21 THE WITNESS: Correct.

22 MEMBER ALBERTI: And you don't know



1 whether these people were consuming alcohol or not, is  
2 that what your testimony was earlier?

3 THE WITNESS: Correct.

4 MEMBER ALBERTI: I have no further  
5 questions. Thank you.

6 CHAIRPERSON ANDERSON: Mr. Diomi, Mr.  
7 Gilliam has stated -- this incident occurred on March  
8 23rd, 2018. I'm sorry, May, May 23rd. 2018. When did  
9 you start working at this bar, that this facility, I'm  
10 sorry?

11 THE WITNESS: Okay, I'm employed -- at  
12 Saint Yves itself, that was my first night, but I  
13 worked for the owners. I've been working for the  
14 owners for about a year and a half.

15 CHAIRPERSON ANDERSON: But that was your  
16 first night working at this place, so Mr. Gilliam  
17 testified that your status was your first night, is  
18 that correct?

19 THE WITNESS: Yes. Doing a full shift at  
20 Saint Yves, correct.

21 CHAIRPERSON ANDERSON: So to you working  
22 your first night, what is closing time at 2 a.m. and

1 what does that mean to you?

2 THE WITNESS: Closing time at 2 a.m. means  
3 that we gradually -- we go through a process. We turn  
4 on all the lights. Last call is 15 minutes before 2  
5 a.m. And then we turn on the lights about 10 minutes  
6 before 2. Then the bartenders start cleaning. The  
7 bussers start removing drinks from tables and security  
8 is walking around, telling customers to finish up  
9 their drinks and the DJ announced that we close at 2.

10 CHAIRPERSON ANDERSON: So this is over a  
11 year ago, so typically how long does it take folks to  
12 get out of the establishment?

13 THE WITNESS: Okay, like I said on a  
14 typical night about 10 to 15. That night wasn't  
15 typical because I had to attend to Mr. Gilliam,  
16 Basically, getting liquor licenses, answering  
17 questions and all of that because I usually oversee  
18 the whole process. I direct my people, security,  
19 bussers, and all of that, you know, to speed up the  
20 process and customers out.

21 CHAIRPERSON ANDERSON: But again, this was  
22 your first night, is that correct?

1 THE WITNESS: Correct.

2 CHAIRPERSON ANDERSON: Ms. Barnes, any  
3 questions based on the questions that the Board asked?

4 MS. BARNES: No, sir.

5 CHAIRPERSON ANDERSON: Mr. Sung, any  
6 questions based on the questions the Board asked?

7 MR. SUNG: No, sir.

8 CHAIRPERSON ANDERSON: No? All right.  
9 Thank you, Mr. Diomi, for your testimony. You can  
10 step down.

11 THE WITNESS: Okay. Thank you.

12 CHAIRPERSON ANDERSON: Do you have any  
13 other witnesses?

14 MR. SUNG: No, sir.

15 CHAIRPERSON ANDERSON: Do you rest?

16 MR. SUNG: Yes.

17 CHAIRPERSON ANDERSON: Does the Government  
18 wish to make a closing statement?

19 MS. BARNES: Yes, sir.

20 CLOSING STATEMENT OF REBECCA BARNES, ESQ.

21 ON BEHALF OF THE GOVERNMENT

22 MS. BARNES: Members of the Board, today,

1 the Government has provided sufficient evidence for  
2 the Board to find that on Wednesday, May 23rd, 2018,  
3 Saint Yves operated after hours.

4 We heard from ABRA Investigator Countee  
5 Gilliam that on May 23rd at approximately 2:10 a.m.,  
6 he visited the establishment and observed numerous  
7 patrons still exiting the establishment.

8 Upon entering, Investigator Gilliam  
9 testified how he witnessed firsthand numerous patrons  
10 within the establishment including individuals still  
11 consuming alcohol.

12 He reviewed the video footages that  
13 document this account clearly showing patrons moving  
14 about the premises with bar glasses in hand clearly  
15 full and that the party was still in full sway at that  
16 time.

17 Investigator Gilliam testified that he  
18 reviewed Saint Yves' ABC license and determined that  
19 the license did not allow for sales or operation after  
20 2 a.m. and this license was presented here today.

21 Investigator Gilliam also relayed his  
22 conversation with the ABC manager on duty of whom he

1 informed of the violation and who denied that any  
2 sales had occurred after Board-approved hours, but  
3 also acknowledged Investigator Gilliam's observation  
4 that the establishment was in violation of ABRA rules  
5 by continuing to allow consumption and did not offer  
6 any challenge to that.

7 Finally, Investigator Gilliam recounted in  
8 the video footage taken at the time corroborates how  
9 even as he left, after he left at 2:31 a.m. on  
10 Wednesday morning, there was still a considerable  
11 number of patrons leaving the establishment at a  
12 leisurely pace.

13 The sum of the documentary proof presented  
14 here today including a documentation of the licensee's  
15 hours of operation contrasted with the photograph  
16 proof and Investigator Gilliam's detailed firsthand  
17 witness testimony is substantial evidence that Saint  
18 Yves was indeed in violation of both the terms of its  
19 license and ABRA regulations that Wednesday night when  
20 it permitted consumption of alcohol, alcoholic  
21 beverages, after hours.

22 Nothing further. Thank you.

1                   CHAIRPERSON ANDERSON: So what is it that  
2 you want us to do?

3                   MS. BARNES: We believe that the District  
4 has met its burden for Charge 1 and we would like to  
5 request a fine at the Board's discretion.

6                   CHAIRPERSON ANDERSON: All right. Mr.  
7 Sung?

8                   CLOSING STATEMENT OF KIJUN SUNG

9                   ON BEHALF OF THE LICENSEE

10                  MR. SUNG: Thank you, Chairman and members  
11 of the Board. There's a statute and a regulation that  
12 is in play here. The statute is 25-723 and we are  
13 clearly not in violation of that statute because it  
14 only talks about selling and serving after hours and  
15 there has been no testimony or evidence about selling  
16 or serving after the approved hours.

17                  The regulation goes beyond the statute and  
18 states selling or serving and finally permit the  
19 consumption of alcoholic beverages after the approved  
20 hours. It's certainly not a strict liability  
21 regulation because of the word "permit." Just  
22 because someone is consuming alcohol after hours does

1 not mean that the licensee permitted the consumption,  
2 so the task for the board members is to determine what  
3 is it to permit the consumption of alcoholic beverages  
4 after hours. That is your task.

5 Now this was not a secret nightclub  
6 operating after hours. You can all see that from the  
7 video evidence. The DJ has stopped performing. The  
8 lights were on. People were exiting the club.

9 The Board has to think about the intent of  
10 the statute and the regulation. Is it the Agency's  
11 mission to play gotcha with a licensee who is  
12 exercising best efforts to peacefully comply with the  
13 law? Do you want to penalize a licensee, a small  
14 business, for taking best practices?

15 You certainly don't want, as Mr. Gilliam  
16 testified, for employees to be seizing, physically  
17 seizing cups out of the customers' hands. I think the  
18 Board would agree with that.

19 And certainly, I find it surprising  
20 counselor's characterization of a club in quote  
21 unquote full sway. That's the farthest thing that the  
22 evidence shows. The club was not in full sway. It

1 was closing. It had been closed. It's just merely  
2 allowing the patrons to leave. The patrons are not  
3 dancing. You can see from the video that they're  
4 hugging each other goodbye. They're peacefully  
5 exiting the club.

6 I submit to you that this is exactly what  
7 the Board wants. This is the reason the law exists.  
8 You want peaceful exiting from the club. You don't  
9 want security to be yelling at the customers to leave  
10 the club, shoving them out the door. That's not what  
11 you want.

12 The scene that you see in the video is a  
13 very peaceful club, people very happy exiting the  
14 club, making small talk, but leaving the club. The  
15 club is closed.

16 Getting into the technical aspects of the  
17 case, the burden is on the Government. If you want to  
18 be strict and literal about the statute and the  
19 regulation, was it alcohol? I'm not going to sit here  
20 and tell you that it wasn't, probably. But the  
21 Government has the burden of proof. And all we have  
22 is the speculation of the investigator saying it's



1 alcohol. He didn't smell it. He didn't taste it. He  
2 didn't ask about it. So that alone, the burden wasn't  
3 met.

4 So I would just conclude briefly. There's  
5 the letter and spirit of the law. The licensee has  
6 fully complied with the spirit of the law. It's in  
7 the Board's discretion that the Government has asked  
8 that the Board use its discretion in coming up with  
9 the penalty if it chooses to do so and I would ask the  
10 board to simply take into consideration that here is  
11 a licensee that is trying to in good faith comply with  
12 the law. Thank you very much.

13 CHAIRPERSON ANDERSON: Thank you. The  
14 record is now closed.

15 Do the parties wish to file proposed  
16 findings of fact and conclusions of law or waive their  
17 right to do so?

18 MR. SUNG: We'd like to file.

19 CHAIRPERSON ANDERSON: All right. Mr.  
20 Adams, I assume that you're going to file also since  
21 they're going to file? All right.

22 If the parties choose to file, since the

1 parties have chosen to file proposed findings of fact  
2 and conclusions of law, then 90 days from when the  
3 Board receives proposed findings of fact and  
4 conclusions of law, you should receive the transcript  
5 within -- so therefore, the conclusions of law and  
6 findings of fact are due to the Board 30 days after  
7 receipt of the transcript and should take  
8 approximately 3 weeks or so to receive the transcript.

9 If you change your mind about issuing  
10 proposed findings of fact and conclusions of law,  
11 please let the Board know after your decision.

12 All right, as chairperson of the Alcoholic  
13 Beverage Control Board for the District of Columbia  
14 and in accordance with D.C. Official Code Section  
15 2574(b) of the Open Meetings Act, I move that ABC  
16 Board hold a closed meeting for the purpose of seeking  
17 legal advice from our counsel on Case 18-CMP-00144,  
18 Saint Yves, pursuant to D.C. Official Code Section  
19 2574(b)(4) of the Open Meetings Act and deliberating  
20 upon Case No. 18-CMP-00144, Saint Yves, for the  
21 reasons cited in D.C. Official Code Section  
22 2754(b)(13) of the Open Meetings Act.

1 Is there a second?

2 MEMBER SHORT: Second.

3 MEMBER SILVERSTEIN: Second.

4 CHAIRPERSON ANDERSON: Mr. Short and Mr.  
5 Silverstein have seconded the motion.

6 I will now take a roll call vote before us  
7 now that it's been seconded.

8 Ms. Wahabzadah.

9 MEMBER WAHABZADAH: I agree.

10 CHAIRPERSON ANDERSON: Mr. Silverstein.

11 MEMBER SILVERSTEIN: I agree.

12 CHAIRPERSON ANDERSON: Mr. Short.

13 MEMBER SHORT: I agree.

14 CHAIRPERSON ANDERSON: Mr. Alberti.

15 MEMBER ALBERTI: I agree.

16 CHAIRPERSON ANDERSON: Mr. Cato.

17 MR. CATO: I agree.

18 CHAIRPERSON ANDERSON: Mr. Anderson. As  
19 it appears, the motion has passed. I hereby give  
20 notice that the ABC Board will recess these  
21 proceedings to hold a closed meeting in the ABC Board  
22 Conference Room pursuant to Section 2574(b) of the

1 Open Meetings Act. This is matter is now over.

2 I would like to thank both parties.  
3 Without knowing, I told the process here that their  
4 case should take approximately an hour and it's  
5 approximately an hour. So I would like to thank both  
6 parties for presenting their cases in chief and to  
7 take as short a time as possible to present their  
8 case. So thank you very much for your presentations  
9 and this case -- we'll make a decision and issue  
10 within 90 days, 30 days after your proposed findings  
11 of fact and conclusions of law are due 30 days after  
12 you receive the transcript. Thank you very much for  
13 your presentation today.

14 MR. SUNG: Thank you for your time.

15 CHAIRPERSON ANDERSON: All right. Thank  
16 you.

17 (Whereupon, the above-entitled matter went  
18 off the record at 5:36 p.m.)

19  
20  
21  
22

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In the matter of: Saint Yves

Before: DCABRA

Date: 01-16-19

Place: Washington, DC

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my direction; further, that said transcript is a  
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*Neal R Gross*

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Court Reporter

**NEAL R. GROSS**

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