

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:	:
	:
Eleana, LLC,	:
t/a Secret Lounge	:
1928 9th Street NW	: Fact Finding
Retailer CT - ANC 1B	: Hearing
License No. 107123	:
Case #18-251-00203	:
	:
(Simple Assault)	:

Wednesday,
February 6, 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
MIKE SILVERSTEIN, Member
JAMES SHORT, Member
REMA WAHABZADAH, Member

ALSO PRESENT:

BRIAN O'SHEA, DC MPD

DEREGE DANEALE, Licensee

KEVIN PUENTE, ABRA

SIDON YOHANNES, Licensee's Counsel

T-A-B-L-E O-F C-O-N-T-E-N-T-S

STATEMENTS

Kevin Puente, ABRA Investigator.	5
Brian O'Shea, MPD Officer.	8
Sidon Yohannes, Attorney12
Board Questions:19

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

2 (2:04 p.m.)

3 CHAIRPERSON ANDERSON: The second case
4 on our calendar is Case No. 18-251-00203, Secret
5 Lounge, License No. 107123.

6 Would the parties, please, introduce
7 themselves? Will all parties who are here for
8 Secret Lounge, please, step forward and introduce
9 yourself for the record, please.

10 MS. YOHANNES: Sidon Yohannes on
11 behalf of the licensee.

12 CHAIRPERSON ANDERSON: Good afternoon,
13 Ms. Yohannes.

14 MS. YOHANNES: Good afternoon.

15 MR. DANEALE: Derege Daneale, Secret
16 Lounge.

17 CHAIRPERSON ANDERSON: And your name,
18 sir?

19 MR. DANEALE: Derege Daneale.

20 CHAIRPERSON ANDERSON: Garnell?

21 MR. DANEALE: Derege Daneale.

22 CHAIRPERSON ANDERSON: Daneale?

1 MR. DANEALE: Yeah.

2 CHAIRPERSON ANDERSON: Good afternoon,
3 sir.

4 MR. DANEALE: Good afternoon, sir.

5 INVESTIGATOR PUENTE: Kevin Puente,
6 ABRA Investigator.

7 CHAIRPERSON ANDERSON: Good afternoon,
8 Mr. Puente.

9 Do we have any officers here for --
10 who are here for Secret Lounge?

11 OFFICER O'SHEA: Good afternoon, sir.
12 Officer O'Shea.

13 CHAIRPERSON ANDERSON: You can come
14 forward, please. You can pull up to the table.
15 Please, introduce yourself for the record.

16 OFFICER O'SHEA: Officer O'Shea from
17 the 3rd District.

18 CHAIRPERSON ANDERSON: All right.
19 Thank you. There is a sign-in sheet, please,
20 sign-in also.

21 This is a Fact-Finding Hearing based
22 on an incident that occurred on October 28th. And

1 one of the reasons why we have this Fact-Finding
2 Hearing is because the Chief of Police has made a
3 request to the Board to bring in the owner and to
4 -- because he thought it was of concern and so,
5 therefore, we are trying to ascertain where we
6 are and whether or not the Board should just have
7 a Fact-Finding or whether or not we should have
8 any further investigation on this matter.

9 So I'll start off with Mr. Puente.
10 Maybe you can just bring us up to speed on what
11 the incident was.

12 INVESTIGATOR PUENTE: Yes. So on
13 Sunday morning, October 28, 2018, there was an
14 altercation inside of Secret Lounge. MPD units
15 responded to the location. Upon arrival, the
16 suspect was engaged in a fight with an unknown
17 individual.

18 Officer O'Shea and some other officers
19 attempted to break up the fight. During that
20 time, Officer O'Shea was struck by the suspect
21 and assaulted. He was placed under arrest for
22 simple assault on a police officer.

1 Later that morning, I was walking down
2 9th Street and was flagged down by the Nightlife
3 officers over there who advised me of the
4 incident. I made contact with Mr. Daneale about
5 the incident. He showed me surveillance video
6 right away. There was a fight upstairs that
7 broke out among patrons. At that time, security
8 tried to break up the fight. They were having a
9 hard time, so they went outside and got MPD
10 officers.

11 MPD officers came in and once they got
12 the suspect outside, he engaged with MPD outside.
13 During that same time, I was forwarded video from
14 social media Instagram. There was a patron that
15 picked up a table and assaulted another patron
16 with that table.

17 On the video that I obtained, you
18 could see it in the background the patron
19 assaulting another patron with the table.

20 I advised Mr. Daneale that this was
21 the second or third incident and he needed to
22 take steps to try to mitigate these issues. He

1 advised me that he was going to begin the RDO
2 officers to assist.

3 As far as I know since October when I
4 met with him, he has been with RDO, been getting
5 RDO officers. And since then, there haven't been
6 any issues with the establishment. ABRA hasn't
7 been called or notified about any other issues
8 since.

9 CHAIRPERSON ANDERSON: Okay. So as a
10 result of your investigation, were there any ABRA
11 violations that you were aware of?

12 INVESTIGATOR PUENTE: No. The
13 establishment does not have a security plan or a
14 settlement agreement.

15 CHAIRPERSON ANDERSON: And was the --
16 how cooperative was the owner?

17 INVESTIGATOR PUENTE: Very
18 cooperative. He asked for recommendations. I
19 advised him to look at his security to see if he
20 needed to hire more/additional security guards,
21 depending on the type of event or crowd they were
22 going to have. The establishment is mainly

1 second floor. It's very small. So once he
2 reaches his occupancy, he shuts it, one in/one
3 out. He is very good about that.

4 And many of the patrons outside get
5 upset because they can't get in and security
6 tells them they can't get in until the people
7 come out, because he does not go over his
8 occupancy. And that was a lot of the issues
9 before October of people were getting upset, they
10 wanted to go in, so that's why I advised him to
11 look at getting RDO detail. That RDO can be out
12 front. They can -- if you need them, they will
13 be there and they can assist with the crowd out
14 front and tell them to move along or keep them
15 moving.

16 CHAIRPERSON ANDERSON: So I know you
17 said you had made recommendations to him, so what
18 night of the week was this?

19 INVESTIGATOR PUENTE: This was a
20 Saturday night into Sunday morning.

21 CHAIRPERSON ANDERSON: So in your
22 view, when is it that -- are you familiar with

1 this establishment?

2 INVESTIGATOR PUENTE: Yes.

3 CHAIRPERSON ANDERSON: So when is it
4 that you believe, at least in your view, that
5 there is a lot of activity?

6 INVESTIGATOR PUENTE: Probably the
7 weekends, Friday and Saturday nights.

8 CHAIRPERSON ANDERSON: Good afternoon,
9 Officer O'Shea.

10 OFFICER O'SHEA: Good afternoon, sir.

11 CHAIRPERSON ANDERSON: Is there
12 anything you want to add to what happened this
13 night?

14 OFFICER O'SHEA: Well, if you don't
15 have any specific questions, sir, I could --
16 certainly am happy to give you my recollection of
17 events.

18 CHAIRPERSON ANDERSON: Right. It's
19 nothing specific, it's just whatever you
20 recollect, sir.

21 OFFICER O'SHEA: Certainly. We
22 responded that night when we were flagged down

1 for a fight inside. I can't describe it, you
2 know, in any better way than saying it was
3 complete pandemonium in there, which is,
4 unfortunately, in my opinion and experience, not
5 uncommon.

6 I went up the stairs. It was dark.
7 Again, it was poorly lit, but I would estimate
8 that there were 15 to 20 people actively
9 assaulting one another. At that point, with
10 about three other officers, we called for
11 additional officers, attempted to break up the
12 melee.

13 The defendant who was arrested struck
14 me while I attempted to pull him off another
15 individual and the result of which sent me threw
16 a table that broke. I was able to get him under
17 control and bring him outside where he continued
18 to resist. And again in my experience, it's not
19 uncommon to deal with assaults and disorderlies
20 in the immediate vicinity of that establishment.

21 The RDO officers had been in place, I
22 believe, for several months. I don't think it

1 has been since October. I think it has been
2 probably closer to about 45 days or so on the
3 weekends.

4 I can't tell you with any great
5 accuracy what events or incidents we responded to
6 in that time. I would have to go back and look
7 and, obviously, I don't work every night. But I
8 would call it a problem block. I would call it a
9 problem establishment.

10 In August, we had a homicide right
11 outside and I was on that scene and to my
12 recollection, there were lots of folks who were
13 likely patrons of the lounge that night
14 immediately outside. The place is a problem.

15 CHAIRPERSON ANDERSON: So what
16 recommendations, if any, could you make to the
17 ABC Board? What, if anything, that -- and this
18 is just a Fact-Finding Hearing. We are just --
19 we can't order them to do anything. We can kind
20 of nudge them, but just as a general proposition,
21 is there any recommendation that you would make
22 to the Board, so at least when I address the

1 owner to see what can be done to improve the
2 situation?

3 OFFICER O'SHEA: I wish that I did
4 have recommendations. I'm not a subject matter
5 expert on what your limitations and your --

6 CHAIRPERSON ANDERSON: No, based on
7 what you see. I know you stated that it was a
8 problem. You said that the RDO might have
9 helped, but are there any, just from your --

10 OFFICER O'SHEA: Well, anecdotally --
11 sure, it's my personal opinion --

12 CHAIRPERSON ANDERSON: Yeah, that's
13 fine.

14 OFFICER O'SHEA: -- that they over-
15 serve people. It's like, you know, they do it
16 frequently and without any ramifications and that
17 the end result of that is that people fight and
18 behave in, you know, what charitably can be
19 described as disorderly behavior and, you know,
20 presents a problem for people who live on the
21 block, are transiting the block.

22 It falls out, you know, it creeps

1 outside and, you know, I'm sure there are other
2 issues that go on in there that we don't know
3 about because it ends up being self-contained,
4 but I think they habitually over-serve people.

5 CHAIRPERSON ANDERSON: All right.
6 Thank you. Ms. Yohannes, on behalf of your
7 client, how does your client respond and what
8 changes, if any, do they -- have they initiated
9 or do they plan to or will do?

10 MS. YOHANNES: Sure. As you may
11 recall, this licensee was before the Board in
12 December for a separate Fact-Finding and in that
13 matter, the Board made a decision to not take any
14 further action. The licensee voluntarily
15 submitted a security plan thereafter. They
16 agreed to submit a security plan.

17 So right now, there is a security plan
18 in place. At the time that this incident
19 occurred, there was not a security plan in place.

20 And regarding, and I can speak to some
21 of the statements that were just made as well as
22 what is in the report, in the case report, it

1 does say that there was -- there are cameras in
2 which they were only retaining footage for 15
3 days. Now as a result of the security plan, he
4 is retaining footage for 30 days.

5 The operator also knows how to operate
6 the security cameras and how to get footage if
7 footage is requested.

8 Additionally, I would also like to
9 point out what is in the report and what was also
10 just stated by the Investigator. The licensee as
11 well as his employees, staff were very
12 cooperative. They gave over the footage when
13 requested. They continue to cooperate.

14 Regarding the comment made about over-
15 serving people, there is no evidence. There is
16 no indication as to that in the report, in the
17 licensee's investigative history. He has never
18 been cited for that. I just wanted to make that
19 clear.

20 CHAIRPERSON ANDERSON: Well, the
21 officer stated that was his personal opinion.

22 MS. YOHANNES: Sure.

1 CHAIRPERSON ANDERSON: He wasn't -- so
2 I just want to correct the record. He did not
3 state that this was in the report or that he saw
4 it. He was just saying, in my, and he wasn't
5 saying as an officer, personal opinion, this is
6 what I think. And we all have our opinions that
7 we can give.

8 MS. YOHANNES: Understood.

9 CHAIRPERSON ANDERSON: And I think
10 that, I would hope that the -- whether it's true
11 or not, that if someone has that impression, that
12 I would hope that the licensee takes that into
13 consideration in speaking to his bartenders in
14 the sense of keep track on that. All right.

15 MS. YOHANNES: And I will point out
16 since October, there have not been any incidents.
17 The staff as well as the security personnel are--
18 have gone over the security plan. They know now
19 procedurally what to do.

20 And he does also now have RDO
21 officers, which at that time he didn't.

22 CHAIRPERSON ANDERSON: And when is or

1 when are RDO officers there?

2 MS. YOHANNES: On Fridays and
3 Saturdays.

4 CHAIRPERSON ANDERSON: And from what
5 time to what time?

6 MS. YOHANNES: What time?

7 MR. DANEALE: 11:00 to 4:00.

8 CHAIRPERSON ANDERSON: From what time?

9 MR. DANEALE: 11:00 to 4:00.

10 MS. YOHANNES: 11:00 p.m. to 4:00 a.m.

11 CHAIRPERSON ANDERSON: There are two
12 officers there?

13 MR. DANEALE: Yes.

14 CHAIRPERSON ANDERSON: So what
15 happened this night? I mean, what happened from
16 the owner's perspective? What happened?

17 MS. YOHANNES: Sure. So there was a
18 fight that occurred. There was -- it was on the
19 second floor, so a group of patrons started to
20 get rowdy and it started to escalate. The
21 security personnel that was on that floor noticed
22 that the incident, you know, noticed that a fight

1 may be occurring. They intervened, but soon
2 thereafter it sort of got out of hand.

3 The two officers or two security
4 personnel began to escort women outside of the
5 establishment. And while they were doing that,
6 the men that were in that group started to fight
7 and there was also security personnel that
8 remained on the floor while the other two
9 security personnel were escorting people out.

10 So the other two tried to calm the
11 situation and tried to separate the parties,
12 that's when one of the security personnel on that
13 floor went out to go call for MPD. And that's
14 when MPD arrived and I think that's well, you
15 know the rest.

16 CHAIRPERSON ANDERSON: Now, I know the
17 officer talked about the lighting. I know that
18 it is -- what type of establishment is this?

19 MEMBER SHORT: CT.

20 MS. YOHANNES: Yes.

21 CHAIRPERSON ANDERSON: So it's a
22 tavern. So is there anything we can do about the

1 lighting? I don't know if it's poorly lit, so
2 I'm asking.

3 MS. YOHANNES: I don't believe it is
4 poorly lit. However, I think that the owner, and
5 he can speak to that, is willing to take that
6 into consideration.

7 Do you want to talk about your
8 lighting? Do you think it is -- is there enough
9 lighting?

10 MR. DANEALE: There is enough light
11 there.

12 CHAIRPERSON ANDERSON: I mean, I guess
13 what I'm saying is that is it -- because it's not
14 a club, it's a tavern. So if I go into a tavern,
15 it probably should be like this. Well, it's a
16 tavern.

17 MS. YOHANNES: Right.

18 CHAIRPERSON ANDERSON: But some
19 taverns, restaurants kind of morph into, so we
20 set the mood for the lights. So that's why I'm
21 trying to find out what type of, based on the
22 establishment, lighting do we have? I'm just

1 asking.

2 MS. YOHANNES: I think --

3 CHAIRPERSON ANDERSON: It's a
4 question.

5 MS. YOHANNES: Sure.

6 CHAIRPERSON ANDERSON: It's just an
7 ask.

8 MS. YOHANNES: And at that time at
9 around 11:00 p.m. or later, I think on 9th and U,
10 the lighting is not like this. It's a little bit
11 dimmer. And so people are still visible within
12 the establishment. As the cameras show, you can
13 still see people. You can still see where
14 everyone is, but it's not bright lights.

15 CHAIRPERSON ANDERSON: Mr. Puente?
16 I'm sorry, are you done?

17 MS. YOHANNES: Yes.

18 CHAIRPERSON ANDERSON: Do you have --
19 have you experienced the lighting and do you have
20 any views? What's the lighting? If you don't
21 know, you can say you don't know.

22 INVESTIGATOR PUENTE: I want to go

1 back out and take a look at it again. I know it
2 is dark. It's not bright, but I mean I'm sure
3 some lighting adjustments could be made,
4 especially on that stairwell when you are coming
5 up the stairs. That's the main point entry for
6 the second floor.

7 CHAIRPERSON ANDERSON: All right. So
8 Officer O'Shea, when you were talking about the
9 light, were you talking about the lighting going
10 up the stairs or the lighting in the club? What
11 lighting were you talking about?

12 OFFICER O'SHEA: Sir, in my
13 experience, the lighting inside of Secret Lounge
14 is not consistent with the lighting you would
15 find in what you described as a tavern. It is
16 more consistent with a club and I would say the
17 same about the volume of the music.

18 I remember quite vividly having to
19 scream over the radio for more units, because I
20 couldn't hear myself. I couldn't hear the
21 transmission on my radio as I was approaching
22 about 20 males fighting, throwing chairs at one

1 another. So I think it is disingenuous to
2 suggest that the atmosphere inside of that
3 establishment is not like a club.

4 CHAIRPERSON ANDERSON: Okay. We can
5 only -- their license type is a tavern and so we
6 know that certain taverns, they have some noise.
7 Certain restaurants also. You also have
8 restaurants who when it gets a little bit darker,
9 that the cliental kind of changes and they kind
10 of morph somehow. But I hear you, I hear you.

11 Any questions by any Board Members?
12 Yes, Mr. Short?

13 MEMBER SHORT: This is for the owner.
14 On your stairways, are you familiar with the
15 Building Code for establishments for public
16 assembly? What is your occupancy load? What is
17 your occupancy number?

18 MR. DANEALE: It's 199.

19 MEMBER SHORT: Okay. Anything over 50
20 is considered public assembly. And lighting on
21 stairways is required by the Code Book and I'm
22 quite sure if our Investigator would ask the Fire

1 Marshal to come out with him, that if you cannot
2 see because that are stairwell light that you can
3 add to the point of your second floor, where you
4 can put on the side of the stairs themselves,
5 because if it's that dark, somebody is going to
6 fall and hurt themselves and you can get sued.

7 And so I would suggest to you that you
8 either go to the Building Code or call someone
9 that knows about lighting for places of public
10 assembly. I'm quite sure our Investigator would
11 help you out with that, because even though you
12 are a tavern, places of public assembly must have
13 lighting on the stairways.

14 Do you have cameras on the stairways?

15 MR. DANEALE: Yeah. We should have
16 the camera show you the stairway really light.
17 We have two lights all the way down to the
18 stairway and then we have a big light to the
19 stairway.

20 MEMBER SHORT: Do you have cameras on
21 the stairway?

22 MR. DANEALE: Yes.

1 MEMBER SHORT: So you could see
2 someone's face in the camera?

3 MR. DANEALE: Everything you can see.
4 Very light in the stairway. I can't -- he can
5 send the Investigator tonight, he can see. All
6 the time you have light in the stairway.

7 MEMBER SHORT: Okay. I'm going to ask
8 our Investigator if he will go back out there.

9 MR. DANEALE: Yes.

10 MEMBER SHORT: And he can follow-up
11 and give us a report on that.

12 MR. DANEALE: Yes, please.

13 MEMBER SHORT: And also, how often do
14 you have fights in your club?

15 MR. DANEALE: This is the second
16 incident, you know, to happen since, you know, I
17 changed the audio and I change my security plan
18 and to train all the security. This never
19 happened that was any issue.

20 MEMBER SHORT: Okay. One other issue,
21 and I can tell you that because I know a little
22 bit about public safety --

1 MR. DANEALE: Okay.

2 MEMBER SHORT: -- whenever there is an
3 incident in your club, you are supposed to cut
4 the music down and the lights up, that's supposed
5 to happen automatic, that police officer
6 shouldn't have to yell on his radio. If you have
7 got a fight going on, you should -- that kind of
8 -- all your lights go up. Your music goes off.
9 That police officer and anybody coming in to help
10 you out will help you get your club back under
11 control and can do it better with that situation.

12 So can you agree to do that?

13 MR. DANEALE: Yes, yes.

14 MEMBER SHORT: I mean --

15 MR. DANEALE: Yes, I do, but I don't
16 know how you -- the officer explained that. When
17 he was there, with talking --

18 MEMBER SHORT: Okay. I don't want you
19 to get in an argument with the officer.

20 MR. DANEALE: Okay.

21 MEMBER SHORT: That's not a good
22 thing, but I'll simply say this to you. Him

1 getting assaulted in your establishment is not a
2 good thing.

3 MR. DANEALE: Okay.

4 MEMBER SHORT: I, as a Board Member,
5 I can't speak for the other Board Members, take
6 that -- any of our officers or any Investigators
7 that go there, they should -- when they come in,
8 you should give them all the attention in the
9 world. They can help you and they can help us
10 keep you with a good license.

11 MR. DANEALE: Okay.

12 MEMBER SHORT: Okay? So if you agree
13 to do certain things and I guess a lot of things
14 have been answered.

15 MR. DANEALE: yes.

16 MEMBER SHORT: I don't have no more
17 further questions, but the RDO is working pretty
18 good for you?

19 MR. DANEALE: Yes.

20 MEMBER SHORT: No more incidents?

21 MR. DANEALE: Nothing.

22 MEMBER SHORT: All right. I want to

1 thank the Officer for coming today and thank you
2 for the excellent report, Mr. Puente. That's all
3 I have, Mr. Chair.

4 CHAIRPERSON ANDERSON: Any other
5 questions by any other Board Members? All right.
6 Any final comments, Officer O'Shea?

7 OFFICER O'SHEA: No, sir. Pursuant to
8 authorization of one of my supervisors, I would
9 invite any one of you, ma'am, gentlemen, to come
10 out on a Friday or a Saturday night and spend the
11 night with us in the Club Zone on U Street and
12 make your own determinations as to whether folks
13 are being over-served, both in the establishment
14 we are talking about and the surrounding
15 establishments.

16 CHAIRPERSON ANDERSON: Thank you for
17 the suggestion, Officer. We, the Board, are
18 doing that. We were supposed to have done that
19 last week Friday, but because of the weather,
20 that was canceled. But the Board will be taking
21 a run in the next -- on a Friday night, from
22 11:00 until party time, just to experience it.

1 OFFICER O'SHEA: We will be happy to
2 have you.

3 CHAIRPERSON ANDERSON: All right.
4 Unfortunately, it will be controlled. We will be
5 in a van. I don't think we will be able to come
6 out to go into the clubs, but we will be coming
7 out to see what you see. All right. So we will
8 be able to do that.

9 Ms. Yohannes, any final comments?

10 MS. YOHANNES: The only comment that
11 I'll make is that the licensee now has a security
12 plan. The security plan addresses some of the
13 issues that were just raised regarding what
14 happens when a fight ensues and lights coming on,
15 music being turned off and patrons being served
16 alcohol.

17 CHAIRPERSON ANDERSON: So the security
18 plan has been provided to the Board?

19 MS. YOHANNES: Yes.

20 CHAIRPERSON ANDERSON: And it has been
21 approved as legally sufficient?

22 MS. YOHANNES: It -- yes.

1 CHAIRPERSON ANDERSON: Now, and what
2 about the RDO? When is it that the establishment
3 has RDO and is it going to be -- when is it that
4 the establishment has RDO and will it always have
5 RDO or how is that?

6 MS. YOHANNES: They have RDO Fridays
7 and Saturdays. It is not required -- and
8 holidays as well, 11:00 p.m. to 4:00 a.m.

9 CHAIRPERSON ANDERSON: Okay. So would
10 the establishment agree that it will have RDO
11 Fridays and Saturdays and holidays?

12 MS. YOHANNES: They currently do have
13 RDOs on Fridays and Saturdays and holidays.

14 CHAIRPERSON ANDERSON: Well, there is
15 a difference, you know? Of course you know I
16 can't order you, but if you tell me that this is
17 what you are going to do, then it becomes
18 something that you are going to do.

19 So all right. You aren't willing to
20 answer that question? That's fine. The
21 establishment has RDO. So it's not ordered and
22 they are not agreeing to do that moving forward.

1 Okay. All right.

2 The Board will take this under
3 advisement and we will decide what further
4 actions, if any, we will take. All right. Thank
5 you for being here today.

6 MS. YOHANNES: Thank you.

7 MR. DANEALE: Thank you.

8 (Whereupon, the Fact-Finding Hearing
9 was concluded at 2:26 p.m.)

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In the matter of: Secret Lounge

Before: DC ABRA

Date: 02-06-19

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