



**ALSO PRESENT:**

**FARID KHAIRZADA, Licensee**

**JESSICA KRUPKE, OAG**

**ABDULLAH SULTAN, Licensee**

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

2 3:47 p.m.

3 CHAIRPERSON ANDERSON: Our next case  
4 is Case Number 18-CMP-00138, Woodley Café,  
5 License Number 76441. Would the parties please  
6 approach and identify themselves for the record,  
7 please?

8 MS. KRUPKE: Good afternoon. Jessica  
9 Krupke on behalf of the District of Columbia.

10 CHAIRPERSON ANDERSON: Good afternoon,  
11 Ms. Krupke.

12 MR. SULTAN: Good afternoon, your  
13 Honor.

14 CHAIRPERSON ANDERSON: You're?

15 MR. SULTAN: My name is Sultan from  
16 Woodley Café --

17 CHAIRPERSON ANDERSON: Mr. Sultan --

18 MR. SULTAN: -- owner.

19 CHAIRPERSON ANDERSON: Good afternoon.  
20 You can sit down. Have a seat, please. You,  
21 sir? Yes?

22 MR. KHAIRZADA: Yes, good afternoon.

1 My name is Farid Khairzada. I've been here once  
2 before, we've met before. And I'm also the co-  
3 owner.

4 CHAIRPERSON ANDERSON: All right.  
5 Have a seat, please, and please sign in. So this  
6 is a show cause hearing. Are there any  
7 preliminary matters in this case?

8 MS. KRUPKE: There are not.

9 CHAIRPERSON ANDERSON: Does the  
10 government wish to make an opening statement?

11 MS. KRUPKE: Brief. Good afternoon.  
12 This case involves a tip that was provided to  
13 ABRA, and it was followed up on by ABRA  
14 Investigator Davon Todd. And when he came to the  
15 establishment at approximately 9:50 a.m., he  
16 found that the sidewalk café was open, even  
17 though it was not supposed to be open until 10:00  
18 that day.

19 And so now Officer Davon Todd, then  
20 ABRA Investigator Todd, observed what was  
21 happening, spoke with an individual inside the  
22 establishment and found out that, in fact, the

1 establishment, it seems, had been open since 8:00  
2 a.m. that day and, additionally, that in  
3 violation of ABRA and the D.C. Code, ABRA's  
4 regulations in the D.C. Code that there was no  
5 ABC manager on duty or an owner on duty at the  
6 time, even though the hours of sale had started  
7 at 10:00 a.m. that day.

8 And so this case really involves just  
9 those two charges, that there was a substantial  
10 change in operation, a substantial change in the  
11 nature of the operation because the establishment  
12 was operating the sidewalk café outside the hours  
13 of operation that were permitted in the license,  
14 and the other is the failure to superintend a  
15 person or keep an ABC manager on duty or an owner  
16 on duty at all times.

17 And so we will intend to call one  
18 witness here today, and that's the ABRA  
19 investigator at the time, Davon Todd.

20 CHAIRPERSON ANDERSON: All right.

21 Thank you.

22 Mr. Sultan, will you take the lead or

1 who will take the lead in --

2 MR. KHAIRZADA: I'll take the lead.

3 CHAIRPERSON ANDERSON: You're Mister  
4 again?

5 MR. KHAIRZADA: My name is Farid  
6 Khairzada.

7 CHAIRPERSON ANDERSON: Mr. Khairzada.  
8 All right. Do you wish to make an opening  
9 statement at this juncture, or will you make an  
10 opening statement after the government has  
11 presented its case? It's your option.

12 MR. KHAIRZADA: Well, the government  
13 presented the case, so now do I go for --

14 CHAIRPERSON ANDERSON: No, this is how  
15 it operates. All right. You don't see these  
16 things on TV?

17 MR. KHAIRZADA: No, unfortunately.

18 CHAIRPERSON ANDERSON: All right. The  
19 government makes an opening statement.

20 MR. KHAIRZADA: Right.

21 CHAIRPERSON ANDERSON: The government  
22 tells us what the case is about and what the

1 witnesses they're going to call. You can also  
2 make an opening statement to say what the case is  
3 about and who's your witness. You don't have to  
4 do that now. You can wait until the government  
5 calls its witness, present its case, then you  
6 can do an opening statement and then you can call  
7 your witness. So it's up to you, but you can  
8 either wait or you can -- you're not defending  
9 your case now. You're just giving me a roadmap,  
10 telling me what to look for, but you don't have  
11 to do that. They go first. You can do that at  
12 the end of their case.

13           So what's going to happen, the  
14 government will call its first witness. The  
15 government will ask the witness questions. After  
16 the government has asked questions of the  
17 witness, you then can ask the witness questions  
18 based on the questions that they were asked. So  
19 if you have any specific questions you have about  
20 what the witness did, what he saw, that's your  
21 opportunity to ask questions during that period  
22 of time.



1                   After the government presents its  
2 case, then you can present your case. And if you  
3 have witnesses to call, then you can call your  
4 witnesses, and then the Board will issue a  
5 decision after that, okay?

6                   MR. KHAIRZADA: Okay.

7                   CHAIRPERSON ANDERSON: So do you want  
8 to wait to do your opening statement, or do you  
9 want to do it now?

10                  MR. KHAIRZADA: I'll wait.

11                  CHAIRPERSON ANDERSON: All right.

12 Does the government have its first witness?

13                  MS. KRUPKE: We do. Officer Davon  
14 Todd is called to the stand.

15                  CHAIRPERSON ANDERSON: I think, I  
16 think you have forgotten your -- can you raise  
17 your right hand, please?

18                  (Witness sworn.)

19                  CHAIRPERSON ANDERSON: Thank you.

20 Have a seat. Your witness.

21 WHEREUPON,

22                   DAVON TODD

1 was called as a witness by Counsel for the  
2 Government and, having been first duly sworn,  
3 assumed the witness stand, was examined and  
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MS. KRUPKE:

7 Q Can you please state your name and  
8 spell it for the record?

9 A Name is Officer Davon Todd. It's D-A-  
10 V-O-N, last name is T-O-D-D.

11 Q Thank you. Where do you work?

12 A I currently work for the Metropolitan  
13 Police Department.

14 Q How long have you worked there?

15 A I've worked there for approximately  
16 eight months.

17 Q And where did you work before the  
18 Metropolitan Police Department?

19 A I worked at ABRA, the Alcoholic  
20 Beverage Regulation Administration.

21 Q How long did you work at ABRA?

22 A I worked at ABRA for a little over a

1 year.

2 Q And what type of work did you do for  
3 ABRA?

4 A I was an investigator for ABRA.

5 Q Was one of the establishments that you  
6 were assigned to Woodley Café?

7 A Yes, ma'am.

8 Q And is it your understanding that  
9 Woodley Café is at 2619 Connecticut Avenue,  
10 Northwest, Washington, D.C.?

11 A That's correct.

12 Q And have you ever visited Woodley  
13 Café?

14 A Not before the night that I visited,  
15 not before the day that I visited Woodley Café.

16 Q What day did you visit Woodley Café?

17 A It was a Tuesday, the 15th of May.

18 Q And what year was that?

19 A 2018.

20 Q Why did you visit Woodley Café?

21 A Due to a complaint that was given, an  
22 anonymous tip that was given to ABRA based on the

1 hours of operation that people were observed  
2 sitting on the sidewalk café, the patio outside  
3 the premises.

4 Q When did you receive that tip?

5 A I received that tip the morning of my  
6 visit.

7 Q And can you give us anymore  
8 information about what the tip involved?

9 A The caller wanted to remain anonymous,  
10 but she stated that there were continuous  
11 occurrences where she observed patrons sitting,  
12 partaking food and beverages, on that sidewalk  
13 space.

14 Q After you received the tip, what did  
15 you do?

16 A I actually looked up the license for  
17 Woodley Café, and it stated that they could not  
18 operate on the outside patio space, the sidewalk  
19 café, until 10 a.m.

20 Q What time did you go to Woodley Café?

21 A I visited Woodley Café approximately  
22 9:50.

1 Q What did you see when you arrived?

2 A I arrived at 9:50 and observed patrons  
3 partaking in food and beverages on the sidewalk  
4 café, what the caller stated.

5 Q Where were you in relation to the  
6 establishment at the time that you were making  
7 these observations?

8 A I was actually in my car and then I  
9 walked to the sidewalk. I took a couple of  
10 photographs of the establishment, and this was  
11 around 9:50. She said 9:50 in the morning.

12 Q All right. I am referring to what has  
13 been marked as Exhibit 1 in the investigative  
14 report that has already been made part of the  
15 record. As a courtesy, I'm providing a copy of  
16 Exhibit 1.

17 MEMBER SHORT: We have it.

18 BY MS. KRUPKE:

19 Q I'm handing a copy of Exhibit 1 to the  
20 witness. Do you recognize Exhibit 1?

21 A Yes, ma'am. I took this photo.

22 Q And can you describe the photo?

1           A       I see multiple patrons, approximately  
2 seven people, on the sidewalk café eating and  
3 beverages, and drinking beverages on that  
4 sidewalk café space.

5           Q       Approximately what time did you take  
6 this photo?

7           A       I took that at 9:50 when I arrived.

8           Q       Does it accurately reflect what you  
9 saw at the time of approximately 9:50 in the  
10 morning?

11          A       Without a doubt, ma'am; yes.

12          Q       So after you arrived and observed  
13 what's happening in Exhibit 1, what did you do  
14 next?

15          A       I stood fast for a little bit, and I  
16 walked into the establishment and made contact  
17 with one of the waitresses, actually, and the  
18 waitress told me that this is a normal thing and  
19 they normally open -- I specifically asked the  
20 waiter what time does the café space open, and  
21 she stated about 8:30 every day, every day, every  
22 morning. I asked for an ABC manager or owner of

1 the establishment and made myself known as an  
2 ABRA investigator to the waitress that was behind  
3 the bar.

4 Q Did you collect any identification  
5 from the waitress that you spoke with?

6 A I did. She showed me, she did not  
7 have a driver's license or an identification  
8 card. The only form of ID that she had was a  
9 student ID.

10 Q I'm referring to Exhibit 2, which is  
11 part of the ABRA investigative report, and I'm  
12 going to hand a copy of Exhibit 2 to the witness.  
13 Do you recognize what's been marked as Exhibit 2?

14 A Yes, ma'am. Again, I took this photo.

15 Q And what do you recognize Exhibit 2 to  
16 be?

17 A It is a college ID from Mentora  
18 College, and it's a student ID for a young lady.  
19 I can't pronounce her name. But the spelling is  
20 N-Y-A-M-G-E-R-E-L, first name, last name N-Y-A-M-  
21 S-U-K-H. Date of birth is 3/16/1986.

22 Q Do you recognize this individual as

1 the person that you spoke with that day?

2 A Yes, ma'am.

3 Q And is this the same waitress that you  
4 were referring to earlier who made statements  
5 about what time the establishment opens?

6 A I don't recall the waitress that I  
7 spoke to that walked past as I was coming in, but  
8 this is the young lady that I made contact with  
9 and let her know that I was an ABRA investigator  
10 and I needed to speak to an ABC manager or an  
11 owner of the establishment.

12 Q Okay. So you made contact with two  
13 women at the establishment?

14 A Yes, ma'am.

15 Q Okay. When you asked for an ABC  
16 manager or owner, what did the woman that you  
17 spoke with who's in Exhibit 2, what did she say?

18 A She said that just give her a second,  
19 that she'll go and get that manager for me.

20 Q What happened next?

21 A I was at the bar waiting, waiting,  
22 waiting, and waiting for an ABC manager or an



1 owner to arrive, and there was no result of it.  
2 Therefore, I then conducted a regulatory  
3 inspection in which I automatically commenced  
4 when I enter any establish or I did enter any  
5 establishment while working for ABRA. And  
6 moments later, I'd say approximately 20 - 25  
7 minutes later, she came back and spoke to me and  
8 she said, well, they're on their way, they're on  
9 their way, they're parking the car or, excuse me,  
10 she didn't say they were parking the car, that  
11 someone would be with me in just a moment.

12 Q Okay. And was somebody with you in  
13 just a moment?

14 A No, they weren't.

15 Q How long would you say that you were  
16 waiting at the establishment for an owner or ABC  
17 manager before you left the establishment?

18 A About 30 minutes.

19 Q And did you ever come into contact  
20 with an owner or ABC manager while you were in  
21 the establishment for those 30 minutes?

22 A No, I was not.

1           Q       What did the employee say regarding  
2 any owner or ABC manager's whereabouts?

3           A       She just basically stated that one  
4 would be here, he should be here. She actually  
5 got on the phone and contacted somebody, and she  
6 walked back and just said that the ABC manager  
7 isn't here right now but she would get back to me  
8 in just a moment, someone would be there to see  
9 me in just a moment.

10          Q       Did you request to view the ABC  
11 license at the time?

12          A       Yes, that's normal protocol. The  
13 license was actually hanging directly behind the  
14 bar, behind the liquor bottles present behind the  
15 bar. I asked to see that license. She gave it  
16 to me, and I took a photo of that license. And I  
17 also asked to see the books and records of the  
18 establishment for the purchases of alcohol, and  
19 she was not able to produce that information to  
20 me. She stated again that the ABC manager or the  
21 owner would be able to produce that, but she was  
22 not able to do so.

1           Q       I'm referring to what has been marked  
2 as Exhibit 3 and handing a copy of Exhibit 3 of  
3 the report to the witness. Do you recognize  
4 Exhibit 3?

5           A       Yes, ma'am.

6           Q       What do you recognize it to be?

7           A       Another photo that I took of the  
8 establishment is the ABC license for Woodley  
9 Café.

10          Q       Is this a true and accurate  
11 representation of the ABC license as it pertains  
12 to the sidewalk café as it was presented to you  
13 on May 15th, 2018?

14          A       Yes, ma'am. This is actually the  
15 physical copy of the license that I reviewed in  
16 ABRA's records before I visited the  
17 establishment.

18          Q       And can you identify on the license  
19 what it says in regard to the hours of operation  
20 and sales for Tuesdays in the sidewalk café?

21          A       So I see, Tuesday, the hours of  
22 operation for the sidewalk café and hours of

1 sales are both 10 a.m. to 10 p.m.

2 Q Did you ever speak with an owner or  
3 ABC manager from the establishment?

4 A I actually did when I left the  
5 establishment. I was long gone, and I received a  
6 phone call from the owner of the establishment.

7 Q Do you know the owner's name who  
8 contacted you?

9 A His name started with an S, an S-H.  
10 I can't pronounce his name fully.

11 Q Is the owner's name contained in the  
12 investigative report that you provided to ABRA?

13 A Most definitely, yes, the name that I  
14 always provide.

15 Q Would that help refresh your  
16 recollection if you were able to review that  
17 report?

18 A Yes, ma'am.

19 Q I'm handing a copy of the  
20 investigative report to Officer Todd for purposes  
21 of refreshing his recollection.

22 A Yes, I do. Mr. Sultan.

1           Q       I can take that back. Okay. What did  
2 Mr. Sultan say to you?

3           A       Mr. Sultan stated to me that he was  
4 parking his vehicle when I was inside of the  
5 establishment, and that's what took him so long.

6           Q       And approximately what time was this?

7           A       This was approximately 30 - 35 minutes  
8 after I left the establishment.

9           Q       And what time did you leave the  
10 establishment?

11          A       It would be noted on my regulatory  
12 inspection that I did. I'm not sure if I  
13 included that as a copy in my report. I believe  
14 so.

15          Q       Would a copy of your report refresh  
16 your recollection as to whether or not you --

17          A       Yes, ma'am.

18          Q       I'm handing the witness the  
19 investigative report to refresh his recollection.  
20 When you're done looking at that, you can look  
21 up.

22          A       10:22. 10:22.

1           Q       I'm retrieving the investigative  
2 report. Did you discuss anything else with the  
3 owner at the time you spoke with him?

4           A       I told him, I stated to Mr. Sultan  
5 that he was in violation for operating before the  
6 hours of operation, according to what his ABC  
7 license states. And also I told him that he was  
8 in violation of not having an ABC manager or  
9 himself, the owner, present during the hours of  
10 operation.

11          Q       What did Mr. Sultan say in response,  
12 if anything?

13          A       I recall him stating that he was just  
14 outside parking the vehicle.

15          Q       I am referring to what has been marked  
16 as Exhibit 4 in the investigative report and  
17 handing a copy of the same to opposing party and  
18 handing a copy of the same to the witness. Do  
19 you recognize Exhibit 4?

20          A       Yes, ma'am.

21          Q       What do you recognize Exhibit 4 to be?

22          A       This is regulatory inspection that I

1 conducted while on the premises of Woodley Café.

2 Q Is this a true and accurate  
3 representation of the regulatory inspection that  
4 you prepared that day?

5 A Yes, ma'am.

6 Q As an ABRA investigator, is it typical  
7 to receive anonymous tips?

8 A We get anonymous tips all the time  
9 about establishments, and they wish to remain  
10 anonymous; yes, ma'am.

11 MS. KRUPKE: No further questions at  
12 this time.

13 CHAIRPERSON ANDERSON: Mister --  
14 what's your last name again?

15 MR. KHAIRZADA: Farid Khairzada.

16 CHAIRPERSON ANDERSON: How do you  
17 spell your last name again?

18 MR. KHAIRZADA: K-H-A-I-R-Z-A-D-A.

19 CHAIRPERSON ANDERSON: Do you have any  
20 questions you want to ask Officer Todd?

21 MR. KHAIRZADA: Yes.

22 CHAIRPERSON ANDERSON: Go ahead, sir.

1 Ask him a question.

2 CROSS EXAMINATION

3 BY MR. KHAIRZADA:

4 Q Officer Todd, do you know Joseph  
5 Orleatiz?

6 A No, I do not.

7 Q Yes, he was carrying your business  
8 card all the time with your name on it that he  
9 would --

10 A Joseph?

11 Q Joseph Orleatiz.

12 A I've never met Mr. Joseph Orleatiz.

13 Q He worked at the place that you  
14 inspected, which is called Metro Wine --

15 MS. KRUPKE: Objection.

16 CHAIRPERSON ANDERSON: Hold on.

17 What's the --

18 MS. KRUPKE: It seems as though the  
19 opposing party is testifying rather than asking  
20 questions of the witness.

21 CHAIRPERSON ANDERSON: Hold off, sir.

22 You can't say, Mr. Sultan, you can't say a thing.



1 He's not an attorney, and I'm trying to see  
2 what's going on so --

3 MS. KRUPKE: Understood.

4 CHAIRPERSON ANDERSON: All right. So  
5 I'll give him a little leeway, but I'm going to  
6 overrule your objection for the moment. Mr.  
7 Khairzada, try to frame, you're not having a  
8 conversation. Try to frame it and ask him a  
9 question. Mr. Sultan, you cannot say anything,  
10 sir. That's the reason I asked who was asking  
11 questions. So Mr. Khairzada is the attorney  
12 today, so you can only speak if he says you can  
13 speak.

14 Anyway, try to ask questions based on  
15 the report. Although I'm not quite sure the  
16 questions that you asked, the relevancy, at the  
17 moment, but I'm going to give you some leeway to  
18 ask some questions but try to be on point, sir,  
19 okay? Go ahead.

20 BY MR. KHAIRZADA:

21 Q Okay. The question for the officer is  
22 did you, it looks like in the report you say you

1 did copy the permit number on certificate of use  
2 on the sidewalk café.

3 A Yes, sir.

4 Q Did you see the hours there?

5 A So the certificate of use hours were  
6 not something that I was looking for in terms of,  
7 it is something I was looking for, but, in terms  
8 of what the ABRA license states, it should be a  
9 correspondence.

10 Q So you were just concerned with the  
11 ABRA license? You were not concerned with the  
12 certificate of use that you are --

13 A Well, yes, I was. I just stated that  
14 that's something that I look at, according to my  
15 regulatory inspection.

16 Q I see that certificate of use number  
17 on your report, but did you look at the hours?

18 A Yes, sir.

19 Q You looked at it, didn't you?

20 A Yes, sir.

21 Q Which one is it? Did you look at it?

22 A Yes, yes, I looked at it.

1 Q What were the hours there?

2 A I cannot recall off the top of my  
3 head, sir.

4 Q If I give you this, will this refresh  
5 your memory?

6 A Sure. I can take a look at it.

7 CHAIRPERSON ANDERSON: Can you show it  
8 first to the government? Then do you have  
9 another --

10 MR. KHAIRZADA: As per the procedures  
11 --

12 CHAIRPERSON ANDERSON: Right. Do you  
13 have another copy, or is that the only copy you  
14 have?

15 MR. KHAIRZADA: Well, they can make a  
16 copy, but this is a copy of my --

17 CHAIRPERSON ANDERSON: I'm just saying  
18 you cannot show it to the witness -- whatever  
19 documents you have, before you show it to the  
20 witness, show it to the government first.

21 MS. KRUPKE: I would also object that  
22 these documents were not provided to the

1 government ahead of this hearing. The government  
2 did provide its list of witnesses and the  
3 documents that it would be providing, as required  
4 under the ABRA regulations, and the opposing  
5 party did not do the same. This is the first  
6 time we're seeing this.

7 CHAIRPERSON ANDERSON: Mr. Khairzada,  
8 were you at a status hearing for this case?

9 MR. KHAIRZADA: I was here but  
10 remember, if you recall, you cut it short and  
11 send us for another date and then the date was  
12 postponed again.

13 CHAIRPERSON ANDERSON: No, I'm saying  
14 were you here when, do you recall me telling you  
15 that, when we have the show cause hearing, that  
16 if you're going to call any, if you're going to  
17 have any documents or witnesses, that you need to  
18 disclose it to the other side seven days before?  
19 Do you recall that?

20 MR. KHAIRZADA: But, you know, but I  
21 know I'm dealing with the District of Columbia.  
22 I did not know that I have to provide papers --

1                   CHAIRPERSON ANDERSON: That's not the  
2 question. That's not the question I asked you,  
3 sir.

4                   MR. KHAIRZADA: Your Honor, I don't  
5 understand. I'm not a lawyer.

6                   CHAIRPERSON ANDERSON: I know you're  
7 not a lawyer.

8                   MR. KHAIRZADA: And this is the first  
9 time that we are dealing with something like  
10 this, accused for something like this.

11                  CHAIRPERSON ANDERSON: But I'm asking  
12 a different question, sir. Were you here --

13                  MR. KHAIRZADA: I was here, yes --

14                  CHAIRPERSON ANDERSON: -- on April  
15 10th?

16                  MR. KHAIRZADA: Yes, I was here.  
17 Maybe I didn't understand.

18                  CHAIRPERSON ANDERSON: But if you're  
19 here on April 10th and if I specifically told you  
20 that, when you're coming back to the hearing  
21 today that, if you're going to call a witness or  
22 if you're going to rely on documents, that you

1 need to share the documents with the government  
2 and share it with the agency seven days before.  
3 If I told you that and if you didn't understand,  
4 why did you not say to me I don't understand what  
5 you're talking about?

6 MR. KHAIRZADA: Well, I tried to talk  
7 to Ms. Purpose, whatever her name is --

8 CHAIRPERSON ANDERSON: Who?

9 MR. KHAIRZADA: She was cutting me  
10 short and she did not want to listen to me or she  
11 would go on a silent for about, like, a minute.

12 CHAIRPERSON ANDERSON: When was that?  
13 Who you said you were trying to talk to?

14 MR. KHAIRZADA: Her. Is your name  
15 Purpose? I don't know.

16 MS. KRUPKE: Krupke.

17 MR. KHAIRZADA: Krupke, yes. So I  
18 didn't know what to do. To my understanding,  
19 this is all my documents. Since 1975, we have  
20 certificate of use from 8 a.m. until 2 a.m., and  
21 now it's not acceptable.

22 CHAIRPERSON ANDERSON: Well, that's

1 not what we're talking about. So is the  
2 government -- what documents is it that you have  
3 today that you want to rely on? Is this the only  
4 document or are there more documents?

5 MR. KHAIRZADA: I rely on these things

6 --

7 CHAIRPERSON ANDERSON: What documents

8 --

9 MR. KHAIRZADA: The certificate of  
10 use.

11 CHAIRPERSON ANDERSON: You mean a  
12 certificate of --

13 MR. KHAIRZADA: Use for --

14 CHAIRPERSON ANDERSON: You're talking  
15 about your certificate of occupancy?

16 MR. KHAIRZADA: Certificate of use for  
17 sidewalk café.

18 CHAIRPERSON ANDERSON: What's a  
19 certificate of use of a sidewalk café? I'm not  
20 familiar with -- what's a certificate of use?  
21 What is a certificate, does anyone know what a  
22 certificate of use is?

1 MR. KHAIRZADA: It's a permit that you  
2 can operate a sidewalk café for food and  
3 beverages from the time allowed, from 8:00 to  
4 2:00 --

5 CHAIRPERSON ANDERSON: All right. But  
6 what's, you have an ABRA license; is that  
7 correct?

8 MR. KHAIRZADA: Yes.

9 CHAIRPERSON ANDERSON: You have a --  
10 because you serve alcohol; is that correct?

11 MR. KHAIRZADA: I'm sorry?

12 CHAIRPERSON ANDERSON: You have an  
13 ABRA license because you serve alcohol; is that  
14 correct?

15 MR. KHAIRZADA: Right.

16 CHAIRPERSON ANDERSON: And does your  
17 ABRA license -- when it is that your ABRA license  
18 tells you that, authorizes your opening and  
19 closing?

20 MR. KHAIRZADA: My ABRA license is  
21 only for serving alcohol, not opening and  
22 closing. I never, I was never told that you



1 cannot open your sidewalk café --

2 CHAIRPERSON ANDERSON: No, I'm not  
3 just talking about generally.

4 MR. KHAIRZADA: Generally.

5 CHAIRPERSON ANDERSON: When is it that  
6 --

7 MR. KHAIRZADA: It is from 10:00 until  
8 9:50, 9 that we have the last call.

9 CHAIRPERSON ANDERSON: That's what  
10 your ABRA license says, right?

11 MR. KHAIRZADA: That's my ABRA  
12 license. Every day.

13 CHAIRPERSON ANDERSON: So are you  
14 saying then -- and the reason I'm asking because  
15 I'm just trying to get some clarification. And  
16 so you're saying the certificate of use says that  
17 you can use your sidewalk café from what time?

18 MR. KHAIRZADA: From 8:00 in the  
19 morning.

20 CHAIRPERSON ANDERSON: So are you  
21 saying that your restaurant, does the interior --  
22 so what time does the interior of the store open?

1 MR. KHAIRZADA: 8:00 in the morning.

2 CHAIRPERSON ANDERSON: But you just  
3 said your ABRA license said that you can --

4 MR. KHAIRZADA: ABRA license is  
5 different than serving food. We don't serve  
6 alcohol until 10:00 or beyond that. We serve  
7 alcohol only the time that we are allowed, from  
8 10:00 to 10:00 at night.

9 CHAIRPERSON ANDERSON: But why did  
10 you, why did you apply for, why is there a  
11 sidewalk café on your ABRA license?

12 MR. KHAIRZADA: This was done prior to  
13 us taking over this restaurant 13 years ago, and  
14 it transferred to me without me knowing, like,  
15 what was going on, and this is, like,  
16 continuously, to this day, it is stating the  
17 same.

18 CHAIRPERSON ANDERSON: All right. I'm  
19 going to -- because you're not an attorney and  
20 I'm not quite sure if it's relevant in this  
21 particular case, but I'll allow him to ask the  
22 witness, to show the witness the certificate of

1 use. I'm somewhat -- I think I hear where he's  
2 going. I don't necessarily, I'm not sure if it's  
3 going to impact the case one way or the other,  
4 but that's his theory so he can ask the question  
5 of the witness. And then, you know, so you now  
6 know, Mr. Krupke, where he's going, so I'll allow  
7 him.

8 You can show Mr. Todd the document,  
9 sir. He said he doesn't have another copy. I'm  
10 sorry. We're in recess for a couple of minutes.

11 (Whereupon, the above-entitled matter  
12 went off the record at 4:17 p.m. and resumed at  
13 4:22 p.m.)

14 CHAIRPERSON ANDERSON: You can provide  
15 the witness with a copy of the document, and then  
16 you can ask whatever questions you want to ask,  
17 sir. Does he have --

18 OFC. TODD: No, I don't.

19 CHAIRPERSON ANDERSON: All right.  
20 Where is the document that we started off with?  
21 The witness doesn't have the document, so can you  
22 show him a copy of the document you want to ask

1 questions now?

2 MR. KHAIRZADA: Yes. This document --

3 CHAIRPERSON ANDERSON: No, no, you  
4 need to give him, show him the document. Hand  
5 the document to him. Now you can ask whatever  
6 questions you want to ask, sir.

7 CHAIRPERSON ANDERSON: I thought you  
8 wanted to ask him a question on the document.

9 BY MR. KHAIRZADA:

10 Q Yes. The question on the document  
11 that you have in your hand, do you see the hours  
12 of operation there?

13 A Yes, sir.

14 Q Okay. Does that mean anything to you?

15 A A certificate of use, it means  
16 something to me in terms of my regulatory  
17 inspection. However, I go with the alcohol  
18 license for the ABC establishment.

19 Q But you said the food was served there  
20 and beverages. Did you recognize the beverages?

21 A They can have any type of substance in  
22 them. I didn't say what the beverages contained.

1 I just said food and beverages.

2 Q But you didn't see any alcohol, did  
3 you? Any beer bottle or anything?

4 A I didn't see any beer bottles, no.  
5 But I seen beverages with unknown substance  
6 inside of the beverages.

7 Q Okay. I have no further questions.

8 CHAIRPERSON ANDERSON: Any questions  
9 -- go ahead, Mr. Short.

10 MEMBER SHORT: Okay. It's still, I  
11 guess, afternoon. Good afternoon.

12 OFC. TODD: Good afternoon, sir.

13 MEMBER SHORT: Are you in the practice  
14 that when a business or an establishment has an  
15 ABRA license and they've received a certificate  
16 like this, a certificate of use, that they should  
17 notify ABRA as to those hours on that? Because  
18 their ABRA license whether or not you come up and  
19 do your job, and if you don't see on the ABRA  
20 license, Alcoholic Beverage Regulation  
21 Administration license, then that's the one you  
22 go by?

1                   OFC. TODD: Yes, sir.

2                   MEMBER SHORT: And, normally, wouldn't  
3 someone, a business owner, notify ABRA and get  
4 those hours changed on their ABRA regulation  
5 also?

6                   OFC. TODD: Yes, sir.

7                   MEMBER SHORT: That's the normal  
8 operation?

9                   OFC. TODD: It's the owner's  
10 obligation.

11                  MEMBER SHORT: Okay. I thank you very  
12 much. That's all I have, Mr. Chair.

13                  CHAIRPERSON ANDERSON: Any other  
14 question by any other Board members? Mr. Todd,  
15 when you go to an establishment, why do you look  
16 at the license? Why do you look at that?

17                  OFC. TODD: I look at the license  
18 because it's something that they have to, it's  
19 something that the ABC Board regulates, something  
20 that you guys regulate. So at the end of the  
21 day, that is a document which is substantial to  
22 my regulatory inspection to make sure that they

1 have to have a license posted and make sure they  
2 have the certificate of occupancy, the  
3 certificate of use. In this case, they have a  
4 sidewalk café, so it's a part of my regulatory  
5 inspection.

6 CHAIRPERSON ANDERSON: So do you look,  
7 so when you went to this establishment, you saw  
8 that they had a sidewalk café; is that correct?  
9 You're looking that they had a sidewalk café; is  
10 that correct?

11 OFC. TODD: Yes, sir, they had the  
12 endorsement.

13 CHAIRPERSON ANDERSON: What do you  
14 mean they had an endorsement?

15 OFC. TODD: They had the endorsement  
16 to actually serve and operate on the sidewalk  
17 café in terms of what ABRA allows them to do.

18 CHAIRPERSON ANDERSON: So suppose when  
19 you look at the ABRA license it didn't say that  
20 they could operate a summer garden. What does  
21 that mean? And they were operating a summer  
22 garden. What does that mean to you?

1           OFC. TODD: It means that they would  
2 be in violation of operating on outside space  
3 without properly notifying ABRA of what they're  
4 going to do with their business.

5           CHAIRPERSON ANDERSON: Now, suppose  
6 they were operating their sidewalk café at 11  
7 p.m. in the evening. What would that mean to  
8 you?

9           OFC. TODD: It would mean to me, as a  
10 former ABRA investigator, that they were also in  
11 violation of their hours of operation and hours  
12 of sales, according to what their ABRA license  
13 states.

14           CHAIRPERSON ANDERSON: All right. Do  
15 you have any, do you have any questions to ask?  
16 I'm going to have you go last, Ms. Krupke. Do  
17 you have any questions to ask Officer Todd based  
18 on the questions that the Board just asked him?

19           MR. KHAIRZADA: Can I ask him who  
20 tipped you to go --

21           CHAIRPERSON ANDERSON: I'm sorry.  
22 Well, you can ask him the question. If he



1 doesn't have an answer -- you can ask him the  
2 question.

3 BY MR. KHAIRZADA:

4 Q Did the ABRA, they give you an  
5 assignment to go investigate Woodley Café?

6 A No, sir. They give assignments at  
7 times, but most of my investigations are self-  
8 initiated with my regulatory inspection.

9 MR. KHAIRZADA: That's it.

10 CHAIRPERSON ANDERSON: Ms. Krupke?

11 REDIRECT EXAMINATION

12 BY MS. KRUPKE:

13 Q Have you ever seen the certificate of  
14 use before?

15 A Again, when I was inside of the  
16 establishment, yes.

17 Q When you went to the establishment at  
18 9:50 a.m., knowing that the establishment's hours  
19 of operation started at 10 a.m., what did that  
20 lead you to conclude?

21 A That they were operating before the  
22 hours of operation permitted by their ABRA

1 license.

2 Q No further questions.

3 CHAIRPERSON ANDERSON: Officer Todd,  
4 thank you for being here today and thank you.  
5 You can step down, sir.

6 OFC. TODD: Thank you, sir.

7 CHAIRPERSON ANDERSON: Do you have  
8 another witness?

9 MS. KRUPKE: No, we do not.

10 CHAIRPERSON ANDERSON: Does the  
11 government rest?

12 MS. KRUPKE: Government rests.

13 CHAIRPERSON ANDERSON: All right.  
14 Mister -- one more time, help me again with the  
15 name.

16 MR. KHAIRZADA: Khairzada.

17 CHAIRPERSON ANDERSON: Khairzada. Do  
18 you wish to make an opening statement, and do you  
19 have any witnesses you plan to call?

20 MR. KHAIRZADA: The witness is Mr.  
21 Sultan.

22 CHAIRPERSON ANDERSON: All right. How

1 do you plan to -- all right. How do you plan to  
2 defend your case? Tell me.

3 MR. SULTAN: Myself?

4 CHAIRPERSON ANDERSON: No, talking  
5 with him first. How do you respond to these  
6 charges? Do you need to make an opening  
7 statement, and then you're going to call a  
8 witness. How do you plan to defend yourself?

9 MR. KHAIRZADA: Well, we've been  
10 operating this restaurant since 2006, December  
11 11, and we have never been faced with this kind  
12 of a citation. And to the best of our knowledge,  
13 our alcoholic beverage time was from 10:00 to 10  
14 p.m., and this is what we, when we train people,  
15 we tell them. And even we tell them even if in  
16 the morning until the manager is not here, don't  
17 serve any alcohol. If anybody asks for alcohol,  
18 tell them the manager is not here, we're not  
19 allowed to sell alcohol.

20 Our alcohol sale is between 10 and 14  
21 percent of the business, and we don't rely very  
22 heavily on alcoholic beverages. The reason we

1 have it there is because we have competition, and  
2 we need to have alcoholic beverages served.

3 And as far as the sidewalk café, the  
4 sidewalk café is in operation since it's getting  
5 warm and then until it's warm. As soon as it  
6 gets cold, then the sidewalk café is closed and  
7 the hours of operation there is from 10:00 to  
8 10:00 and for alcoholic beverages. But we were  
9 not prohibited by law to serve food and  
10 beverages, nonalcoholic beverages. And since  
11 they cannot --

12 CHAIRPERSON ANDERSON: Well, I  
13 apologize. Was this your case you're presenting  
14 or were you just giving an opening statement?  
15 Which one was it?

16 MR. KHAIRZADA: Whichever way you take  
17 it because I don't know.

18 CHAIRPERSON ANDERSON: All right.  
19 Raise your right hand. I'm sorry. Raise your  
20 right.

21 (Witness sworn.)

22 CHAIRPERSON ANDERSON: All right. Go

1 ahead. I'm sorry. I should have had you -- I  
2 thought you were just giving an opening  
3 statement. I didn't realize that you'd be  
4 testifying. So just summarize what you just said  
5 before, sir. Go ahead.

6 MR. KHAIRZADA: Well, the reason we  
7 are here is about the service of food and  
8 beverages on the sidewalk café, that we are  
9 allowed to serve from 8:00 to 2:00 in the  
10 morning, to 2 a.m. But as far as alcoholic  
11 beverages are concerned, we are serving from  
12 10:00 to 10 p.m. And people might still be  
13 sitting on the sidewalk café past 10:00, but they  
14 would not be receiving any new alcoholic  
15 beverages after 10 p.m.

16 And as far as Mr. Sultan being in the  
17 alley and delivery trucks, garbage truck, and  
18 everybody on the sidewalk, I'm sorry, in the  
19 alley behind the restaurant where we come to the  
20 restaurant to bring deliveries that we pick up  
21 from Restaurant Depot. And he was stuck there  
22 and Officer Todd, he just said that he spent half

1 an hour in there, but his timing is not adding  
2 up. And this is the only thing I can say.

3 Officer Todd was tipped by a  
4 disgruntled worker, that he was carrying his  
5 business card and he was threatening us that he  
6 would close us down. And that's all I have to  
7 say.

8 CHAIRPERSON ANDERSON: All right. Ms.  
9 Krupke, do you have any questions you want to ask  
10 of him?

11 MS. KRUPKE: Yes. On May 15th, 2018,  
12 did you open the sidewalk café before 10:00 a.m.?

13 MR. KHAIRZADA: The 15th?

14 MS. KRUPKE: Yes.

15 MR. KHAIRZADA: Yes.

16 MS. KRUPKE: Do you regularly open the  
17 sidewalk café before 10:00 a.m.?

18 MR. KHAIRZADA: Yes, we do.

19 MS. KRUPKE: Were you present at the  
20 establishment on May 15th, 2018 between 9:50 a.m.  
21 and 10:30 a.m.?

22 MR. KHAIRZADA: No, I was not. That's

1 my day off, but Mr. Sultan was there that  
2 morning.

3 MS. KRUPKE: Do you permit the serving  
4 of food and beverages before 10:00 a.m. any day  
5 of the week?

6 MR. KHAIRZADA: No alcoholic beverage,  
7 but soft drinks are allowed.

8 MS. KRUPKE: May 15th at approximately  
9 10:00 a.m., where was the alcohol located, if  
10 you're aware?

11 MR. KHAIRZADA: All the alcoholic  
12 beverages are behind the bar and on the shelf.

13 MS. KRUPKE: Were they accessible for  
14 sale, service, or consumption?

15 MR. KHAIRZADA: We never put a chain  
16 around it or take it away. It's always in the  
17 bar.

18 MS. KRUPKE: Was the establishment  
19 open to the public on May 15th, 2018 between the  
20 hours of 9:50 a.m. and 10:30 a.m.?

21 MR. KHAIRZADA: Yes, inside and  
22 outside.

1 MS. KRUPKE: Was the alcohol and  
2 beverage license in safekeeping on that day?

3 MR. KHAIRZADA: Alcoholic beverage  
4 license?

5 MS. KRUPKE: Yes.

6 MR. KHAIRZADA: Well, yes, it was. It  
7 was right on the wall outside the bar.

8 MS. KRUPKE: Were there alcoholic  
9 beverages on the premises on May 15th, 2018?

10 MR. KHAIRZADA: We always have  
11 beverages, alcoholic beverages, and on that day,  
12 too.

13 MS. KRUPKE: Were any ABC managers  
14 present at the establishment between the time of  
15 9:50 a.m. and 10:30 a.m. on May 15, 2018?

16 MR. KHAIRZADA: Not on the floor, but  
17 he was in the alley parking.

18 MS. KRUPKE: But you weren't at the  
19 establishment, so you can't say where he was,  
20 other than him having told you so; is that  
21 correct?

22 MR. KHAIRZADA: That's what he told



1 me.

2 MS. KRUPKE: No further questions.

3 CHAIRPERSON ANDERSON: All right. You  
4 got this, at the time Investigator Todd came to  
5 your establishment over a year ago and you knew  
6 you had this, at least this potential infraction;  
7 is that correct? Did you ever contact anyone at  
8 the agency to say my certificate of use said  
9 8:00? Did you ever ask them to explain the  
10 difference to you?

11 MR. KHAIRZADA: No, I asked the DCRA  
12 --

13 CHAIRPERSON ANDERSON: No, I'm talking  
14 about did you ever ask anyone at this agency?

15 MR. KHAIRZADA: Not at this agency,  
16 no.

17 CHAIRPERSON ANDERSON: Why?

18 MR. KHAIRZADA: Because it says  
19 sidewalk café endorsement. To me, that means I  
20 can serve alcohol from that time.

21 CHAIRPERSON ANDERSON: But did you  
22 ever ask -- an investigator came to your place

1 and gave you a ticket to say that you weren't  
2 supposed to serve alcohol. This is over a year  
3 ago.

4 MR. KHAIRZADA: Yes.

5 CHAIRPERSON ANDERSON: And you weren't  
6 supposed to sell alcohol, you weren't supposed to  
7 use your sidewalk café before 10:00. Did you  
8 ever contact this agency to say what is this  
9 person talking about, I have a certificate of use  
10 that says 8:00. Why is he telling me that, since  
11 I wasn't serving, as you're stating, since I  
12 wasn't serving alcohol between 8 and 10, I always  
13 serve my alcohol after 10, why would he give me -  
14 - I know that you request a hearing, but I'm just  
15 saying did you ever ask anyone to say, based on  
16 my license and based on my certificate of use,  
17 what is he talking about? Did you ever talk to  
18 anybody in this agency?

19 MR. KHAIRZADA: I didn't talk because  
20 I was under the impression that we don't sell  
21 alcohol, so I don't need to other question  
22 because nobody ever brought this up to me that we

1 were not able to sell alcohol.

2 CHAIRPERSON ANDERSON: But let me ask  
3 you a question. What time do you close your  
4 business every evening?

5 MR. KHAIRZADA: Every evening, the  
6 business door closes before 10:00 or 10:00.

7 CHAIRPERSON ANDERSON: Why?

8 MR. KHAIRZADA: Because that's the  
9 license allowed to operate and there's no more  
10 business in the area.

11 CHAIRPERSON ANDERSON: But what time  
12 do you close your sidewalk café?

13 MR. KHAIRZADA: The sidewalk café,  
14 around 9:30 they start collecting the chairs.

15 CHAIRPERSON ANDERSON: But your  
16 certificate of use says 2 a.m. Why do you not  
17 operate -- your certificate of use says that you  
18 can use it until 2 a.m.

19 MR. KHAIRZADA: Right.

20 CHAIRPERSON ANDERSON: So why don't  
21 you operate until 2 a.m.?

22 MR. KHAIRZADA: I can't open the place

1 and no customers. There's no customers there.

2 CHAIRPERSON ANDERSON: So you're  
3 saying the only reason why you're not using your  
4 sidewalk café until 2 a.m. is because there's no  
5 customers?

6 MR. KHAIRZADA: There's no customers.  
7 Past 10:00, we hardly see anybody because we are  
8 in the hotel district and no one comes out.

9 CHAIRPERSON ANDERSON: Any other  
10 question -- yes, Mr. Short?

11 MEMBER SHORT: Good afternoon again,  
12 Mister --

13 MR. KHAIRZADA: Khairzada.

14 MEMBER SHORT: -- Khairzada. Yes,  
15 okay. Have you ever had any other tickets  
16 written to you by ABRA?

17 MR. KHAIRZADA: Yes, we did for filing  
18 late the --

19 MEMBER SHORT: Quarterly statement.

20 MR. KHAIRZADA: -- quarterly done by  
21 my accountant.

22 MEMBER SHORT: How many years have you

1       been selling alcohol in the District of Columbia?

2                   MR. KHAIRZADA:   About 13 years.

3                   MEMBER SHORT:   Thirteen years.   How  
4       well do you know the laws that govern, that gives  
5       you privilege to have a license to sell alcohol?

6                   MR. KHAIRZADA:   Other than tips  
7       program, I don't know anything beyond that.

8                   MEMBER SHORT:   You don't have a clue?

9                   MR. KHAIRZADA:   No more than that,  
10      yes.   To how to deal with customer, drunk people,  
11      and where you're allowed to buy --

12                  MEMBER SHORT:   Okay.   No matter what  
13      happens during this hearing, do you agree it  
14      might be good that you get a copy of the laws and  
15      rules that regulate alcohol sales and service  
16      here in Washington, D.C.?   You can probably get a  
17      book before you leave here today.

18                  MR. KHAIRZADA:   Yes.

19                  MEMBER SHORT:   Okay.   Because in that  
20      book, it would tell you any changes you make in  
21      your license or what to have in your license, you  
22      have to come to ABRA for you to do that on your

1 alcohol license. Your alcohol license only deals  
2 with alcohol sales, so when an investigator comes  
3 and sees a use permit from DCRA that does not  
4 reflect what you can do with alcohol. Do you  
5 understand that?

6 MR. KHAIRZADA: Yes, I understand.

7 MEMBER SHORT: And you were asked a  
8 question earlier. You got this citation a year  
9 ago, and you haven't changed or thought to change  
10 your hours or ask to change your hours to early  
11 hours for ABRA?

12 MR. KHAIRZADA: I didn't think that  
13 was needed. I thought the officer made a  
14 mistake, and he wrote this up and --

15 MEMBER SHORT: I'm glad you said that.  
16 Now, did you ever address anybody in ABRA that  
17 this investigator made a mistake? Did you ever  
18 call and talk with anybody --

19 MR. KHAIRZADA: No, I didn't.

20 MEMBER SHORT: Why not?

21 MR. KHAIRZADA: Because in my mind he  
22 was wrong, I was right.

1 MEMBER SHORT: You received a ticket.

2 MR. KHAIRZADA: Yes.

3 MEMBER SHORT: That violation means  
4 that you broke the rules and you could be fined  
5 or something else could happen, and you didn't  
6 call and check to find out if you could get it  
7 corrected because if you have a use and there was  
8 a mixup, for you to talk with somebody in this  
9 office, they might have told you, sir, you have  
10 to come here and amend your ABRA license, which  
11 you wouldn't probably had any problems doing.

12 MR. KHAIRZADA: But, your Honor, I  
13 don't want to change the hours of the operation  
14 of the alcohol.

15 MEMBER SHORT: That means every time  
16 an ABRA investigator comes, since you don't want  
17 to do that, the law and the rules say you have to  
18 do that, that means you'll get a ticket every  
19 time.

20 MR. KHAIRZADA: Yes, if the law says,  
21 yes.

22 MEMBER SHORT: Excuse me?

1 MR. KHAIRZADA: Since you're bringing  
2 this to me that, to me, this is something new I  
3 didn't know.

4 MEMBER SHORT: One last question for  
5 you. Would you have a problem going to ABRA as  
6 soon as practical and getting your license  
7 changed, the hours changed?

8 MR. KHAIRZADA: I have no problem.

9 MEMBER SHORT: Okay, all right.  
10 That's all I have. Thank you very much. That's  
11 all I have, Mr. Chair.

12 CHAIRPERSON ANDERSON: Any questions,  
13 Mr. Silverstein?

14 MEMBER SILVERSTEIN: No, I do not.

15 CHAIRPERSON ANDERSON: Ms. Krupke, do  
16 you have any questions that you want to ask based  
17 on the questions that were asked by the Board?

18 MS. KRUPKE: No.

19 CHAIRPERSON ANDERSON: Any  
20 clarification that you want to provide based on  
21 the questions that you were asked of you, sir?

22 MR. KHAIRZADA: I'd like to know if I



1 can submit this into the record.

2 CHAIRPERSON ANDERSON: I ruled  
3 earlier, sir, that I'm not going to allow you to  
4 disclose those documents. And the reason why I'm  
5 not, it's a significant amount of documents and I  
6 specifically instructed you at the -- the  
7 government objects and I also specifically  
8 instructed you at our show cause hearing status  
9 that if you have any documents or witnesses you  
10 have disclosed those seven days in advance, and  
11 you did not do that. So because you did not do  
12 that and the government objects, I'm not going to  
13 allow you to disclose these documents today.

14 And on top of that, I don't believe  
15 that they're relevant because I think what you've  
16 basically stated is that the purpose of these  
17 documents is to show that there was no alcohol  
18 sale before 10:00; is that correct?

19 MR. KHAIRZADA: Yes.

20 CHAIRPERSON ANDERSON: And that's what  
21 the documents, the documents you want to submit  
22 is to show that you did not make any alcohol sale

1 prior to 10:00; is that correct?

2 MR. KHAIRZADA: Right.

3 CHAIRPERSON ANDERSON: All right. So  
4 I'm not going to allow you to disclose those  
5 documents but for the reasons why I just stated.  
6 And the main reason is because you did not  
7 disclose them and the government objects. All  
8 right. Do you have another witness that you want  
9 to put on?

10 MR. KHAIRZADA: I don't have --

11 CHAIRPERSON ANDERSON: No? You're not  
12 going to put Mr. Sultan on? That's your call.  
13 You tell me if you want to call another witness,  
14 or is that it? I know that you're also the  
15 owner, so you tell me what you want to do.

16 MR. KHAIRZADA: I have no more  
17 question, unless he wants to say something.

18 CHAIRPERSON ANDERSON: Do you want to  
19 say something, Mr. Sultan?

20 MR. SULTAN: Well, your Honor --

21 CHAIRPERSON ANDERSON: Hold on. Can  
22 you raise your right hand, please? And you know

1 that the testimony that you gave, she's going to  
2 cross-examine you, okay?

3 (Witness sworn.)

4 CHAIRPERSON ANDERSON: Okay, go ahead.

5 MR. SULTAN: Well, actually, the  
6 reason I'm standing here for the sidewalk café  
7 license, which we know they provided us, the  
8 government gave it to us, the sidewalk café from  
9 8:00 until the 2:00 just to serve beverage and  
10 food. That's the purpose we opened sidewalk and  
11 we open our restaurant at 8:00.

12 He asked also why you close before  
13 2:00. Because if you come there at 9:30, it's  
14 just nobody there. I cannot afford to pay for  
15 the electricity, for the labor, for the cost. Of  
16 course, I'm going to -- if you're going to have  
17 restaurant like me, you're going to do the same  
18 thing. Not even me. That's why I will tell you,  
19 you know, that's why we close. If there's going  
20 to be business, of course I'll have to put some  
21 money in my pocket and work it until 2:00. It  
22 makes sense.

1           The other thing, that we never serve  
2 beverage before 10:00. Not inside, not outside.  
3 I always instruct my employees to please, as long  
4 as I'm not here, you're not allowed to serve.

5           Third, one employee, that he contacted  
6 him, he was stealing a bottle of drink. So we  
7 didn't like him. We were firing him. And then  
8 he told the other employees I'm going to close  
9 this place, and he contacted this guy. We saw  
10 the card and the other employees saw the card. I  
11 have a witness that they saw the card with his  
12 name.

13           And then how did I know if I'm going  
14 to go to the license department and they give me  
15 a license from 8:00 until 2:00 to serve food and  
16 beverage and then I don't know that the liquor  
17 department doesn't have any contact with the  
18 government for this revelation. It is between  
19 the government. Alcohol department is a part of  
20 the government of D.C. You should know that. If  
21 they're going to have a license for us at 8:00  
22 with charges up to 2:00, we can sell food, but it

1 doesn't mean that if we are open at 8:00 we are  
2 serving alcohol.

3           That's what it is. Very simple.  
4 Thirteen years. No violation. Nothing. Every  
5 time your agent is coming, you go happy from our  
6 restaurant because everything is organized. All  
7 the licenses hang there. Nothing is hiding  
8 there. And then somebody, one employee, he's  
9 trying to take it out of us. They're going to  
10 send this guy to us. It is really hurting. I'm  
11 hurting. What I did a violation, nothing. I  
12 opened my restaurant at 8:00, which the  
13 government gave it to me permission to open it.  
14 I open it there to make money. If I don't open  
15 it until 2:00, it means that I don't want to open  
16 it until 2:00 because I have a license but I  
17 don't do it.

18           Please, we are partners. It is really  
19 difficult for us. And with all your  
20 understanding, with everything, to believe me,  
21 you just come back alley and you see what's going  
22 on. Garbage truck is there. Delivery truck is

1 there. The parking lot also where I park is  
2 right there, and I cannot move. And I know that  
3 10:00 we are open for liquor. Before that, no.  
4 That's my, with all respect, your Honor, that's  
5 my word to you. Thank you.

6 CHAIRPERSON ANDERSON: Ms. Krupke.

7 MS. KRUPKE: On May 15th, 2018, at  
8 approximately 9:55 to 10:30 a.m., where were you?

9 MR. SULTAN: I was in the alley.

10 MS. KRUPKE: Were you inside the  
11 establishment?

12 MR. SULTAN: I came in the  
13 establishment. I went into my office. I had a  
14 little bit, a vegetable delivery. I give to  
15 them, and I went outside because my car was  
16 supposed to go the parking lot because that alley  
17 is very small and I don't want to stop the  
18 traffic. When I got out, I saw one truck of  
19 deliveries out in front of me, like maybe 300  
20 meter or 400 meter and about maybe 200 meter in  
21 my back they were trying to pull the garbage, the  
22 garbage truck was there.

1 MS. KRUPKE: Okay. So to answer --

2 MR. SULTAN: And I was taking, all  
3 these people, you know, they are having their  
4 cars in the back of that alley. Nobody wants to  
5 block them.

6 MS. KRUPKE: Okay. So to answer my  
7 question, between the time of 9:55 a.m. and 10:30  
8 a.m., were you inside the establishment?

9 MR. SULTAN: Between what time?

10 MS. KRUPKE: 9:55 a.m. and 10:30 a.m.,  
11 were you inside the establishment on that day?

12 MR. SULTAN: No.

13 MS. KRUPKE: Were you on the sidewalk  
14 --

15 MR. SULTAN: Maybe 10:20, 10:15, I got  
16 inside and the officer was gone. And then I  
17 investigate what happened and this and that. I  
18 talk to my server, and then she told me. And  
19 then I called the officer and said, you know, I'm  
20 here and I was parking my car. I said whatever  
21 was the reality about it.

22 MS. KRUPKE: Were there any other ABC

1 managers working that day?

2 MR. SULTAN: No.

3 MS. KRUPKE: No further questions.

4 CHAIRPERSON ANDERSON: Any questions  
5 by any Board members? Let's see if I have any  
6 questions. So, Mr. Sultan, in the report,  
7 Investigator Todd stated that you contacted him  
8 at 10:35.

9 MR. SULTAN: Yes.

10 CHAIRPERSON ANDERSON: So why did you  
11 contact him at 10:35? He testified that he was  
12 there --

13 MR. SULTAN: Well, actually, I told  
14 you about I got there like 10:15 or 10:20. I had  
15 -- what do you call it? I had a chance to park  
16 my car and walk back to the restaurant, to the  
17 establishment. And then I tried to investigate  
18 what's going on, and she explained it to me and  
19 this and that. And then I got the number, and  
20 then I call at that time, like maybe within 15  
21 minutes after I came to the establishment, 10 or  
22 15 minutes, something like that. Right away, I



1 call him.

2 CHAIRPERSON ANDERSON: Have you seen  
3 this report? Have you seen this report?

4 MR. SULTAN: Yes, I saw the report.

5 CHAIRPERSON ANDERSON: In the report  
6 -- how do you pronounce this name?

7 MR. SULTAN: Nyamsukh.

8 CHAIRPERSON ANDERSON: Ms. Nyamsukh.

9 MR. SULTAN: Yes.

10 CHAIRPERSON ANDERSON: All right. Ms.

11 Nyamsukh told -- this is about 10:05. Ms.

12 Nyamsukh told, in the report, this is what the  
13 report says, told Mr. Todd that the owner was in  
14 the office upstairs. Was that an incorrect --

15 MR. SULTAN: That's maybe a mistake.

16 The office is not upstairs. The office is  
17 downstairs. So most of the time, they cannot see  
18 because if I come from the back door I go  
19 directly to the basement, which is our offices in  
20 the basement. Nobody knows that I'm here unless  
21 they're going to call or inform me, they come  
22 down. So I was in the office downstairs in the

1 basement. Of course, I came, as I told you, I  
2 delivered some vegetables and I went to the  
3 office to put my folders and other thing, and  
4 then I lock it immediately. I went outside the  
5 alley to move my car.

6 CHAIRPERSON ANDERSON: All right. Did  
7 you speak to, did Ms. Nyamsukh call you that  
8 morning and tell you that --

9 MR. SULTAN: Yes.

10 CHAIRPERSON ANDERSON: So she called  
11 you --

12 MR. SULTAN: She called me. She  
13 called me that officer is there. I said, you  
14 know, I have to park my car, tell the officer my  
15 boss is parking his car in the alley and I'm  
16 stuck there.

17 CHAIRPERSON ANDERSON: All right. Do  
18 you know -- Mr. Todd stated in the report, after  
19 she said that you were upstairs and she contacted  
20 you, then --

21 MR. SULTAN: She called me.

22 CHAIRPERSON ANDERSON: Right. You

1 admit that she called you; is that correct?

2 MR. SULTAN: Yes.

3 CHAIRPERSON ANDERSON: But then she  
4 told, Mr. Todd wrote in his report that she said  
5 that you were ten minutes away.

6 MR. SULTAN: Yes, she said ten minutes  
7 away. You cannot predict, you know. Maybe I  
8 said ten minutes or maybe Nyamsukh said ten  
9 minutes, but you don't know how long it's going  
10 to take for this delivery truck to move or the  
11 garbage truck which is behind. Even the garbage  
12 truck behind me was supposed to go the same  
13 direction I was going to park. The first  
14 delivery truck, which was in the front, he was  
15 supposed to move. Then I was going to go  
16 forward, go to the garage, and then the garbage  
17 truck was following that to get out of the alley.  
18 If it's not possible, I'm a human being, your  
19 Honor.

20 CHAIRPERSON ANDERSON: All right.

21 MR. SULTAN: I cannot go push people,  
22 you know, to just get out of the way.

1                   CHAIRPERSON ANDERSON: All right. Any  
2 other questions? Ms. Krupke, any questions of  
3 the witness based on the questions that were  
4 asked by me?

5                   MS. KRUPKE: You said that you went  
6 into your basement and no one knows you're there.  
7 Is that where you frequently spend your time when  
8 you're at the restaurant? When you're at the  
9 restaurant, do you frequently spend your time in  
10 your office where no one knows if you're there or  
11 not?

12                  MR. SULTAN: Well, sometime, if I have  
13 something, every early morning, when you go, you  
14 have to check in with the print of the, what do  
15 you call it, the business from yesterday, which  
16 is from the day before where they're going to  
17 send it through computers and I have to collect  
18 that one and look at it. If there's any minus or  
19 any plus or somebody or a credit card or  
20 something, all these things are supposed to be in  
21 the morning. But usually, when I go in the  
22 morning, I just open, put my briefcase with my

1 papers there. And if I have delivery, I just  
2 take it to the kitchen and then I walk down and I  
3 go park my car because there is no parking behind  
4 us except the parking outside. And then that's  
5 what it is.

6 Occasionally, of course, you know, I  
7 have to go to my office. Sometime I'm on the  
8 floor, sometime I'm in the office and working  
9 some paper works and stuff like that and  
10 computer, all the --

11 MS. KRUPKE: Okay, thank you.

12 MR. SULTAN: -- stuff.

13 MS. KRUPKE: No further questions.

14 CHAIRPERSON ANDERSON: All right. Do  
15 you have anything else do you want to say, or do  
16 you rest? Is that it?

17 MR. SULTAN: Thank you, sir.

18 CHAIRPERSON ANDERSON: All right. Do  
19 you wish to make a closing statement, meaning  
20 that what is it that you want the Board to do?  
21 I'm going to ask both sides. Whoever wants to  
22 tell us. All right. So the government goes, and

1 then I give the government an opportunity to, if  
2 they so desire, the last word.

3 So do you wish to make an opening  
4 statement, and what is it that you want the Board  
5 to do?

6 MS. KRUPKE: Thank you. From the  
7 testimony here today, it's clear that there were  
8 two violations of the D.C. Code that took place  
9 on May 15th, 2018 in the hours between 9:50 a.m.  
10 and approximately 10:20 a.m., and those are that  
11 there was a failure to superintendent person or  
12 keep a licensed ABC manager on duty at the time  
13 of the hours of operation and sales, I'm sorry,  
14 of the hours of sales, and that's a violation of  
15 D.C. Code 25-701 and 23 DCMR 707.1.

16 We've heard testimony here today from  
17 the owners themselves that no ABC manager was  
18 present at the time. The owners were not present  
19 in the establishment. Parking the car outside in  
20 the alley does not count as superintending in  
21 person over this establishment at the time that  
22 then Investigator Todd was present and asking for

1 an ABC manager. And as is clear from Exhibit 3  
2 in the investigative report, the hours of sales  
3 were from 10 a.m. to 10 p.m. on Tuesdays. And  
4 so, therefore, there should have been an owner or  
5 ABC manager present at that time, and there was  
6 not, as we've heard from the owners themselves  
7 here today.

8 And, furthermore, Officer Todd waited  
9 for approximately 30 minutes for someone to show  
10 up who was either an owner or manager, and this  
11 establishment wasn't even able to produce one in  
12 that long amount of time. And so, therefore, the  
13 government believes that we have established that  
14 charge one, which is a secondary-tier charge, has  
15 been proven.

16 In addition, for charge two, a  
17 substantial change in the nature of the operation  
18 of the licensed establishment as set forth in the  
19 initial application in that they operated the  
20 sidewalk café outside the hours of operation.  
21 Here, again, Exhibit 3 shows that the hours of  
22 operation for the sidewalk café were from 10 a.m.

1 to 10 p.m. and, yet, we've heard testimony here  
2 today from the owners themselves that they  
3 regularly opened at 8:00 a.m.

4 We also heard testimony from Officer  
5 Todd who said that he was present at 9:50 a.m.  
6 and the sidewalk café was open and there were  
7 folks there and they were eating and drinking,  
8 and the photograph, Exhibit 1, does show that and  
9 shows that there isn't -- I would direct you to  
10 look at that. There's an open sign that is  
11 illuminated on that exhibit, and I would  
12 encourage you to take a look at that. You can  
13 plainly see patrons sitting there at that time.

14 In addition, the owners here have  
15 testified, you know, that there's no violation in  
16 the past 13 years and that they didn't know that  
17 they couldn't be open at that time. However, the  
18 reason that there likely was no violation, the  
19 government would argue, is because ABRA didn't,  
20 ABRA investigators didn't know that they should  
21 show up at 8:00 a.m. because it's not in the  
22 license and so, therefore, they didn't even know



1 that they should be going there to check on this  
2 establishment that early in the morning. You  
3 know, 13 years of making sure that this  
4 establishment was not, you know, providing  
5 alcohol when they were not licensed to do so.

6 And, furthermore, even though they  
7 have what appears to be, there's been no  
8 authentication other than from the owners that  
9 this is an authentic document and, since it was  
10 not provided to the government, I have not been  
11 able to investigate that myself. Even though  
12 there is this sidewalk café, it seems, for hours  
13 of operation for this café, as the Board is well  
14 aware, there is the ABRA regulations that require  
15 that you provide hours of operation and of sales.  
16 And there's been no testimony here today as to  
17 why this establishment did not understand the  
18 hours of operation and sales can be different.  
19 Here they were the same: 10 a.m. to 10 p.m. every  
20 day of the week. If they wanted different hours  
21 of sales and operation so that they didn't have  
22 to have an ABC manager on duty at a certain time,

1 we certainly could have changed those and had  
2 them be different, but they made no effort to do  
3 so.

4 So, therefore, the government believes  
5 that we have satisfied our burden to prove charge  
6 two and to ask that the Board impose upon for  
7 both charge one and charge two in the amount  
8 that's provided for in the regulations. It's  
9 back here if the Board would like a recommended  
10 fine. But the government also offers it to the  
11 discretion of the Board as the appropriate fine  
12 to impose.

13 CHAIRPERSON ANDERSON: All right.

14 Mr. Khairzada, what is it you want the  
15 Board to do?

16 MR. KHAIRZADA: I would like the Board  
17 to understand our position, that, even though  
18 that she's a lawyer, I'm not a lawyer, if I knew  
19 I was going to be put in this situation, I would  
20 have paid someone to represent me. But if I can  
21 ask the Board to reconsider this case for a  
22 continuance, and we can get a lawyer where we can

1 argue with the lawyer. I just, I don't know  
2 anything else to say here.

3 CHAIRPERSON ANDERSON: Well, you've  
4 already argued the case. You've already argued  
5 the case, so I'm not quite sure, I'm not sure  
6 what other arguments that your lawyer, if you  
7 were to hire a lawyer. But the case is over.  
8 The case is over. You have argued the case, so  
9 we can't go stop the case and so you can go hire  
10 a lawyer so we can start back over. So that's  
11 not a possibility.

12 So you have made your arguments. What  
13 is it that you want, what do you want the Board  
14 to do? Do you want the Board to find you guilty  
15 and charge you on both charges, or you tell me  
16 what is it you want the Board to do.

17 MR. KHAIRZADA: I'd like the Board to  
18 find us not guilty because we are really not  
19 guilty.

20 CHAIRPERSON ANDERSON: Okay.

21 MR. KHAIRZADA: Thank you.

22 CHAIRPERSON ANDERSON: All right. Do

1 the parties wish to file proposed findings or  
2 fact and conclusion of law or waive the right to  
3 do? Meaning that do you want the Board just to  
4 make a decision on the presentation that was made  
5 today?

6 MR. KHAIRZADA: Sure.

7 CHAIRPERSON ANDERSON: All right. As  
8 Chairperson of the Alcoholic Beverage Control  
9 Board for the District of Columbia and in  
10 accordance with D.C. Official Code Section  
11 2574(b) of the Open Meetings Act, I move that ABC  
12 Board hold a closed meeting for the purpose of  
13 seeking legal advice from our counsel on Case  
14 Number 18-CMP-00138, Woodley Café, pursuant to  
15 D.C. Official Code Section 2574(b)(4) of the Open  
16 Meetings Act and deliberate upon Case Number 18-  
17 CMP-00138, Woodley Café, for the reasons cited in  
18 D.C. Official Code Section 2574(b)(13) of the  
19 Open Meetings Act. Is there a second?

20 MEMBER SHORT: Second.

21 MEMBER SILVERSTEIN: Second.

22 CHAIRPERSON ANDERSON: Mr. Short and

1 Mr. Silverstein have seconded the motion. I will  
2 now take a roll call vote on the motion before us  
3 now that it has been seconded. Ms. Wahabzadah?

4 MEMBER WAHABZADAH: I agree.

5 CHAIRPERSON ANDERSON: Mr.

6 Silverstein?

7 MEMBER SILVERSTEIN: I agree.

8 CHAIRPERSON ANDERSON: Mr. Short?

9 MEMBER SHORT: I agree.

10 CHAIRPERSON ANDERSON: Mr. Anderson.

11 I agree. It appears that the motion has passed.

12 I hereby give notice that the ABC Board will  
13 recess these proceedings to hold a closed meeting  
14 in the ABC Board conference room pursuant to  
15 Section 2574(b) of the Open Meetings Act.

16 Thank you. The Board will take this  
17 matter under advisement. I will issue a decision  
18 within 90 days. Thank you very much.

19 As Chairperson of the Alcoholic  
20 Beverage Control Board for the District of  
21 Columbia and in accordance with D.C. Official  
22 Code Section 2574(b) of the Open Meetings Act, I

1 move that the ABC Board hold a closed meeting for  
2 the purpose of seeking legal advice, I move that  
3 ABC Board hold a closed meeting on June 5th, 2019  
4 for the purpose of seeking legal advice from our  
5 counsel on the matters identified under the  
6 Board's legal, license, and investigative agenda  
7 for June 5th, 2019 as published in the D.C.  
8 Register on May 31st, 2019. Is there a second?

9 MEMBER SHORT: Second.

10 MEMBER SILVERSTEIN: Second.

11 CHAIRPERSON ANDERSON: Mr. Short and  
12 Mr. Silverstein have seconded the motion. I will  
13 take a roll call vote on the motion before us now  
14 that it has been seconded. Ms. Wahabzadah?

15 MEMBER WAHABZADAH: I agree.

16 CHAIRPERSON ANDERSON: Mr.  
17 Silverstein?

18 MEMBER SILVERSTEIN: I agree.

19 CHAIRPERSON ANDERSON: Mr. Short?

20 MEMBER SHORT: I agree.

21 CHAIRPERSON ANDERSON: Mr. Anderson.

22 It appears that the motion has passed. I hereby

1 give notice that ABC Board will hold this closed  
2 meeting pursuant to the Open Meetings Act.  
3 Notice will also be posted on the ABC Board  
4 Hearing Room bulletin board, placed on the  
5 electronic calendar on ABRA's website, and  
6 published in the D.C. Register in as timely a  
7 manner as practical.

8 It is 5:13 p.m., and we are adjourned  
9 for the day. Thank you.

10  
11 (Whereupon, the above-entitled matter  
12 went off the record at 5:12 p.m.)  
13  
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This is to certify that the foregoing transcript

In the matter of: Woodley Cafe

Before: DCABRA

Date: 05-22-19

Place: Washington, DC

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

*Neal R Gross*

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Court Reporter

**NEAL R. GROSS**

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