

LIQUOR CONTROL ADJUDICATION BOARD
DEPARTMENT OF LIQUOR CONTROL
COUNTY OF MAUI, STATE OF HAWAII

TRANSCRIPT OF PROCEEDINGS
REGULAR MEETING

Held at the Department of Liquor Control Conference Room, David K. Trask, Jr. Office Building, 2145 Kaohu Street, Room 108, Wailuku, Maui, Hawaii, commencing at 9:00 a.m., on Thursday, January 5, 2017.

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1 BOARD MEMBERS PRESENT:

2 Donald Fujii, Chairperson

3 Wayne Pagan, Vice-Chairperson

4 Doris Tanaka, Member

5 Zachary Helm, Member

6 Gwen Ueoka, Member

7 Bruce U`u, Member

8 STAFF PRESENT:

9 Edward Kushi, Jr., First Deputy Corporation Counsel

10 Peter Hanano, Deputy Prosecuting Attorney

11 Glenn Mukai, Director

12 Mark Honda, Deputy Director

13 Bill Pacheco, Chief Enforcement Officer

14 Sarah Cordeiro, Secretary to Boards/Commissions II

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1 (Thursday, January 5, 2017, 9:00 a.m.)

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3 CHAIR FUJII: (Gavel.) Good morning. The
4 meeting of the Liquor Control Adjudication Board is now
5 called to order pursuant to Section 281-91 of the Hawaii
6 Revised Statutes and Section 8-13.3 of the Charter of the
7 County of Maui to consider the matters and issues that's
8 posted on today's agenda.

9 Before we introduce everyone, the Board would
10 like to extend Happy New Year to all of you here. And
11 being that's first week of the year, yeah, we think it's
12 appropriate it be all healthy, safe and, of course, be
13 happy.

14 At this time we would like the Board Members to
15 introduce yourselves, starting with our secretary.

16 MS. CORDEIRO: Sarah Cordeiro, Liquor Control.

17 MEMBER TANAKA: Doris Tanaka, Wailuku.

18 MEMBER HELM: Zach Helm, Molokai.

19 MEMBER UEOKA: Gwen Ueoka, Wailuku.

20 MR. KUSHI: Ed Kushi, Corp Counsel's Office.

21 CHAIR FUJII: Donald Fujii, Wailuku.

22 VICE-CHAIR PAGAN: Wayne Pagan, Upcountry.

23 MEMBER U`U: Bruce U`u, Paia.

24 DEPUTY DIRECTOR HONDA: Mark Honda, Liquor
25 Control.

1 DIRECTOR MUKAI: Glenn Mukai, Liquor Control.

2 MR. HANANO: Peter Hanano on behalf of the
3 Department of Prosecuting Attorney.

4 MR. PACHECO: And Bill Pacheco, Department of
5 Liquor Control.

6 CHAIR FUJII: Board Members, Ben Despina, JB De
7 Mello, Jerrybeth De Mello, and Candace Ariaga are excused
8 for today's meeting.

9 We will now hear Complaint & Accusation Number
10 2017-1 against Maui Arts & Cultural Center doing business
11 as Maui Arts & Cultural Center. Will the respondent or
12 its representative please step forward? And state your
13 name and what capacity you represent the respondent.

14 MR. MANCINI: Hi. Good morning and Happy New
15 Year --

16 CHAIR FUJII: Happy New Year.

17 MR. MANCINI: -- Commissioners. My name is Paul
18 Mancini, I'm representing the licensee, Maui Arts &
19 Cultural Center.

20 With me today is Jimmy Haynes, who you might
21 know. Jimmy's been involved with the MACC since its
22 inception in 1994, and he was instrumental with Pundy in
23 getting it constructed and getting the program going. And
24 Luana Argel is here, she's the Food and Beverage Manager
25 of the Maui Arts & Cultural Center.

1 CHAIR FUJII: Thank you. At this time,
2 Mr. Mancini, you have the option of having the charges
3 publicly read, you can waive the reading.

4 MR. MANCINI: We will waive the reading.

5 CHAIR FUJII: Mr. Mancini, again, for the
6 record, do you represent the respondent involved?

7 MR. MANCINI: Yes, I do.

8 CHAIR FUJII: Are you their legal counsel?

9 MR. MANCINI: Yes, I am.

10 CHAIR FUJII: Do you understand -- of course,
11 you're here as the legal counsel. Do you understand the
12 charges against you?

13 MR. MANCINI: We do understand the charges.

14 CHAIR FUJII: What is your plea to Count 1?

15 MR. MANCINI: We had plead no contest to Count
16 1.

17 CHAIR FUJII: And Count 2 -- Count 3?

18 MR. MANCINI: Plead no contest to Count 3.

19 CHAIR FUJII: Thank you. Do you understand the
20 violations the Department of Liquor Control alleges
21 against you?

22 MR. MANCINI: Yes.

23 CHAIR FUJII: Do you understand that you have
24 the right to plead not guilty?

25 MR. MANCINI: We understand that.

1 CHAIR FUJII: Do you understand, by pleading no
2 contest, you waive the right to a hearing in which you
3 could present evidence and question witnesses on your
4 behalf?

5 MR. MANCINI: We understand that.

6 CHAIR FUJII: Is your plea of no contest
7 voluntary, and not the result of force, threats or
8 promises apart from any plea agreement?

9 MR. MANCINI: It is voluntary.

10 CHAIR FUJII: Do you understand that, on each
11 count, if the Board accepts the plea of no contest, you
12 will be found guilty, and that the Board may issue a
13 reprimand, assess and collect a penalty of up to \$2,000,
14 or revoke any license at any time, or suspend the right of
15 the licensee to use the licensee's license?

16 MR. MANCINI: We understand the impact of
17 pleading no contest to the counts.

18 CHAIR FUJII: Do you still wish to plead no
19 contest?

20 MR. MANCINI: We do.

21 CHAIR FUJII: The Board hereby finds that the
22 licensee has entered a knowing and voluntary plea of no
23 contest. The Board accepts your plea and finds you guilty
24 on Count 1 and Count 3 reflected in Complaint and
25 Accusation Number 2017-1.

1 At this time, Mr. Hanano, we would like the
2 Department to present a summary of the case.

3 MR. HANANO: Thank you, Chair.

4 On June 8, 2016, Liquor Control Officers Cielo
5 Molina and Robert Shiige were assigned to conduct an
6 inspection of the Maui Arts & Cultural Center, also known
7 as the MACC, located at One Cameron Way, Kahului, Maui,
8 Hawaii. On that date, the MACC was hosting an event
9 called Thunder from Down Under which was to be held from
10 7:30 p.m. to 9:00 p.m.

11 On June 8, 2016, at approximately 8:00 p.m.,
12 Liquor Control Officers Molina and Shiige entered the
13 front entrance gates and proceeded to the Founder's Court
14 area where the open bars were located. As they approached
15 the bar, they observed four bartenders working behind the
16 bar counter. While conducting their inspection, the
17 manager on duty, identified as Lynnay Luana Argel
18 introduced herself and offered to accompany the Liquor
19 Control Officers around the premises for the inspection.
20 According to Argel, there were approximately 800-plus
21 attendees for the event, 64 employees which included
22 volunteers, managers, entertainers and security personnel.

23 At first, the Liquor Control Officers conducted
24 an inspection of the Castle Theater area. At this time,
25 the program had already begun. At that time, both Liquor

1 Control Officers observed the following:

2 In the first act, a male performer walked down
3 from the stage into the audience, selected a female patron
4 and brought her onto the stage; the male performer had no
5 shirt, wore a pair of long unbuttoned dark-colored pants
6 which exposed his turquoise-colored underwear; while on
7 stage, the female -- while on stage, the female was then
8 seated on a chair while the male performer restrained the
9 female's hands together above her head; the male performer
10 then appeared to kiss the female patron, grab her right
11 hand, then place her hand on his chest area and slowly
12 slide her hand down his crotch area; the male performer
13 then stood the female patron up, picked her up, then spun
14 her around, then laid her on her back on the floor of the
15 stage; while the female patron lay on the ground, the male
16 performer removed his pants, leaving him dressed in only
17 the turquoise-colored thong underwear; the male performer
18 then proceeded to lay on top of the female patron, rubbing
19 his body on hers, simulating sexual intercourse; a few
20 seconds later, the stage lights went off; and when the
21 lights turned back on, both the male performer and the
22 female patron were standing on their feet; the male
23 performer then planted a kiss on the female patron's
24 cheek, then they both acknowledged the cheering audience.

25 In the second act, four -- the four of the male

1 performers, who were dressed only in long pants, walked
2 into the audience; as they roamed the audience, the male
3 performers walked in between -- in between the seated
4 patrons, dancing and lifting patrons up; some of the male
5 performers stood on the armrests of the seats with patrons
6 still seated in them; after they were finished walking
7 through the audience, the four male patrons walked up on
8 the stage and continued dancing while stripping off their
9 pants, leaving only their G-string thong underwear, which
10 clearly exposed the cleft of their buttocks.

11 Nothing further, Chair.

12 CHAIR FUJII: Thank you, Mr. Hanano. Are there
13 any questions by Members of the Board, according to -- as
14 presented by Mr. Hanano? Any questions? At this time, no
15 questions, I guess your report has been pretty much -- we
16 can visualize what you reported on there.

17 MR. HANANO: There is a video, too, if any of
18 the Board Members wants to view it.

19 CHAIR FUJII: Thank you.

20 MR. HANANO: You're welcome, Chair.

21 CHAIR FUJII: Mr. Mancini, you now have the
22 opportunity to make a statement regarding this case.

23 MR. MANCINI: Yeah. I would like to --

24 CHAIR FUJII: You may also inform the Board of
25 any mitigating circumstances which may or may not apply to

1 the sentencing.

2 MR. MANCINI: Yeah. I would just like to make a
3 few comments, if I -- if I can about it.

4 I think it's a bit of a unusual circumstance we
5 have here. And it's a bit complex, a little more complex
6 that might -- might seem than first blush here. It's
7 unusual because the events that took place were in the
8 Castle Theater. The Castle Theater has never served, had
9 the consumption of liquor, had the sale of liquor since
10 its existence in 1994, I think, is when it started -- it
11 started. Liquor had never been served there. Liquor has
12 still never been served there. And on the day involved
13 here, there was no liquor.

14 This is -- the reason this is a little unusual
15 because when -- it's not a question that's normally before
16 you having to do with the sale/consumption of liquor. It
17 has to do with, basically, regulating activities. A
18 little history may help.

19 In -- from 1994, when this MACC started, 'til
20 about 2011 -- 2011 to '12, the Castle Theater was not a
21 licensed premises. The Schaefer Gallery was not licensed
22 premises. The McCoy Theater was not licensed premises.

23 In about 2011-2012, the Department felt the
24 licensed premises should be expanded to help the MACC out.
25 And from 20, I believe, 12, from that point on, the Castle

1 Theater was part of licensed premises, Schaefer was part
2 of licensed premises, and the McCoy was part of licensed
3 premises. Although, all during those years, there was
4 never any liquor service/consumption in those areas.
5 There was never any liquor regulation in those areas.

6 When it was done back in that time, there was
7 kind of an understanding that would work with the
8 Department to try to figure out how we might fit the MACC
9 into appropriate rules because the rules really didn't
10 work very well. Something like the -- the program over in
11 Lahaina, the theatre in Lahaina there, there was some
12 special rules to deal with that, those programs there. It
13 never happened here.

14 Unfortunately, in June 2016 [sic], it was
15 licensed premises when this happened. And it was
16 something, I think, if the parties had thought about ahead
17 of time and took a little more thorough look at what was
18 going on in the rules, you may have had a different
19 programming decision with regard to this -- this event.
20 But it was licensed then.

21 Today, it's not licensed. The MACC has filed an
22 application in November of this year to de-license the
23 Castle Theater, to de-license Schaefer Gallery, to
24 de-license the McCoy Theater. So, today, it's -- those
25 areas are not part of licensed premises on there.

1 That doesn't solve the issue. All -- the only
2 point of trying to put this in a perspective that it was
3 not and never was an area where liquor was regulated. And
4 the rules are being applied to an area where there's never
5 liquor consumption or regulated. That doesn't mean -- I'm
6 not trying to say that the rules weren't enforced or they
7 shouldn't have been enforced. That's -- that's not my
8 point. I'm trying to put a perspective in here in -- in
9 what's here before you today.

10 It's unusual that you have a case like this
11 where liquor is not regulated, but we're just regulating
12 activity. It's just unusual.

13 The complexity comes to play in programming. I
14 think we've all lived in the island here for, all of us,
15 over 40 years, over 40 years. And I think we're kind of
16 proud of the programs that the MACC has brought to this
17 community, who have all been here. We've all seen Bob
18 Dylan there. Two times, I've seen him two times there.
19 We've seen Elton John there two nights. We've seen Dianna
20 Ross there. Yo-Yo Ma was here a couple years ago. We do
21 bring the highest best entertainment you will find in the
22 world here, high-class entertainers. And the MACC is
23 quite proud of it, for a community our size, to be able to
24 do that, to do that the way we have done it.

25 And if you even look at what's going on this

1 month at the MACC, you've got Judy Collins coming. For
2 older people like Donald and me, we probably can
3 appreciate Judy Collins. We've got UB40, the guys like
4 Wayne might know, might want to --

5 CHAIR FUJII: Wayne.

6 VICE-CHAIR PAGAN: Yeah.

7 MR. MANCINI: UB40. You've got the Journey
8 coming. We've got -- we got one of the top pianists in
9 the country coming to play Chopin. I only say that
10 because I'm trying to have you understand programming is a
11 complex issue.

12 And this group that came in -- came in had
13 played on Oahu three times to a full house. They had
14 played in Kauai at the War Memorial there, a county
15 facility on Kauai. They had played on the Big Island in
16 Waimea at times. There wasn't any problem. And we
17 understood there was -- basically, there wasn't gonna be
18 any nudity and, basically, it was acceptability. Some
19 things don't work out as planned from time to time. Other
20 things happen -- happen.

21 And when you get into areas like humor -- and
22 this is what this was about -- in sexuality, you get into
23 a rather complex situation. And I think we've seen it in
24 the last three or four years here. We've had, you know,
25 the same sex marriages before the public, you've had

1 gender identity, you had public schools problems and how
2 to deal with gender identity in the restrooms, you had the
3 legislature of South Carolina that's still trying to grope
4 its way through all of those issues. And to have
5 something like this that was a bit unexpected, and,
6 obviously has create -- created an issue.

7 And it's interesting because it's developed
8 into, surprisingly, a bit of a community issue. I can't
9 believe how many telephone calls you get on this. And --
10 and people take it different ways -- different ways.

11 And it's -- it's complex because you try to deal
12 with entertainment that fits in the community and that
13 fits well. And sometimes it works. Sometimes people see
14 the dark side, some people see the lighter side of humor
15 in it. And it's a funny mix, you know.

16 Would we -- would we like to engage Madonna to
17 come here? Would we like to bring Beyonce here? Would we
18 like to bring Lady Gaga here? And if we brought them,
19 would we have five to six thousand people come? I'm sure
20 we would. And would they appreciate it? I'm sure they
21 would. Would we have problems with costumes and buttocks?
22 And would we have problems with activities and dancings
23 that simulate sex? Possibly, maybe, probably. Does it
24 create a problem? It creates a complex problem if you're
25 a programming and trying to do something.

1 And that's -- that's the only point I'm trying
2 to make here. It's not -- it's not an easy road to go
3 through and to understand it.

4 And the MACC finds its liquor license very
5 valuable. And we find our role in the community to be
6 very valuable. And we would like -- obviously, we want to
7 and we have to comply with the rules.

8 We pleaded no contest here because it -- it
9 ended up that the -- couple of rules were violated, with
10 the buttocks, with the simulation, you know.

11 If we had Lady Gaga here, would you have the
12 same problem? Well, you got -- you got an issue.

13 As I said earlier, I think if this was looked at
14 in the more thorough way, if it was looked at in the
15 context that the Castle is licensed premises, if it was
16 looked at in the terms of what the rules were there
17 applicable, I think you would have a different programming
18 decision.

19 Would some of the community be in favor of that
20 negative, it gets to be, you know, all -- everything is
21 not black and white in the world. There's a lot of
22 grayness you walk there. And that's what we try to muddle
23 through, this grayness, and try to do the right thing.
24 That's my only point.

25 I think Jimmy would like to make a comments -- a

1 few comments about the MACC and how valuable the liquor
2 license is -- is to us, and that we try hard to do well.

3 CHAIR FUJII: Mr. Haynes, go ahead.

4 MR. HAYNES: Thank you. Can you hear me? Okay.
5 I -- I -- you know, I am the Chairman of the Board and I
6 was the Vice Chairman. And then when Pundy passed on, I
7 became, by default, the -- the Chairman. And I've been
8 involved in the -- in the MACC for a long time. First,
9 initially, my wife was involved in it. And Pundy
10 strong-armed me. You can't tell Pundy no, so -- so here I
11 am at the -- at the situation here.

12 And like I said, I represent the Board. This
13 issue will come to the Board. We haven't had a board
14 meeting.

15 And as Paul said, it's a delicate issue because,
16 you know, the issue of -- of censorship or not censorship
17 is -- is a delicate issue. We have to provide a venue
18 that we could -- all voices can be expressed without
19 soliciting violence or -- or harm -- you know, harming the
20 community.

21 But we're clearly in violation of this. And
22 I -- I'm embarrassed to be here in front of you to -- to
23 say this. And we will have a long discussion in the Board
24 about how this will not happen again.

25 And I -- I -- I thank you for your -- your

1 interest and -- and concern about this. And -- and we
2 take this very seriously. So thank you again.

3 CHAIR FUJIII: Thank you, Mr. Mancini and
4 Mr. Haynes. Any questions by Members of the Board? I
5 have a few, but anyone? No questions. Let me start with,
6 you know, it's called Maui Arts & Cultural Center. Does a
7 show like this contribute to the arts and cultural -- to
8 the community, provide any arts or cultural services to
9 the community?

10 MR. MANCINI: I think you have to look at
11 entertainment and shows where it fits in the MACC. The
12 MACC has broad programs, and entertainment is a smaller
13 part of the mission here. If you look at what the MACC
14 does with regard to programming, we've got an extensive
15 program in the art gallery. If you look at the art
16 gallery today and take a look at the visiting artists from
17 Japan there, you will be amazed. It has a tremendous
18 aspect of what it is in that. And it's done all
19 year-round.

20 If you -- if you -- most people are not aware of
21 our educational programs and outreach to the community
22 in -- in concert with the Kennedy Center. We spend
23 amount -- amazing amount of time with the schools and the
24 teachers on -- on art and --

25 CHAIR FUJIII: Mr. Mancini, I'm just directing

1 this show, this particular show. I know it provides lot
2 of community help.

3 MR. MANCINI: Yeah.

4 CHAIR FUJII: There's great artwork there in
5 the -- at the MACC.

6 MR. MANCINI: Yeah.

7 CHAIR FUJII: It's just the --

8 MR. MANCINI: As I said earlier, the programming
9 decision, obviously, is something the program committee
10 had. As I indicated before, I think if it was thought of
11 in the more thorough way, in the context it would -- I
12 don't think you would have the same programming decision
13 that we had here. But it was looked at and it wasn't
14 looked at adequately, to answer your question.

15 CHAIR FUJII: Okay.

16 MR. MANCINI: That's the best I can -- I
17 should've been more articulate before.

18 CHAIR FUJII: Thank you. That's the response I
19 expected. Was there any sanctions or penalties to the
20 production at all?

21 MR. MANCINI: No.

22 MR. HAYNES: Let me speak to that a little bit.
23 There's -- there's two types of performances. One is that
24 we are the sponsor, Maui Arts & Cultural Center, the other
25 one is we rent the facility. Now, in this instance, we

1 rented the facility. We were not the promotor or sponsor
2 of the event.

3 We did do a due diligence on -- on this
4 organization or this performance. And they had performed,
5 of course, on -- on Kauai and the Big Island and in
6 Honolulu. And there was no -- there was no kickback at
7 all on it. We also do -- did a due diligence on five very
8 respectable venues on the mainland. And -- and they were
9 totally satisfied in it. So -- but there is a clear
10 distinction between whether we rented the facility or we
11 were the producer. And we were not the producer. Not --
12 not to say that we didn't make a mistake. We did make a
13 mistake.

14 CHAIR FUJII: Okay. I think that kind of
15 answered my questions. Anyone else? Bruce.

16 MEMBER U`U: Yeah, question. If you take the
17 entertainment side out of the Maui Arts & Cultural Center,
18 would it be intact? Would it -- does the entertainment
19 portion of it make it sustainable?

20 MR. MANCINI: Very good question.

21 MR. HAYNES: Yeah, good question.

22 MR. MANCINI: Excellent question. Running a art
23 performance center is a very complex project with regard
24 to the economics of it. You survive with donations, you
25 survive with government support, and you go begging for

1 money throughout the year to make it work.

2 Bruce brings up an interesting -- interesting
3 point. We need programs out there that will generate
4 large groups of people in order to bring in the cash flow.
5 It's a huge facility and it's a very costly facility. And
6 it serves many functions, as I was saying. It's extremely
7 difficult to make the economic cycle work without having
8 entertainment and without getting revenues from the
9 entertainment. And that's one of the reasons that the
10 liquor license is also important, not only for the fact
11 that people enjoy -- enjoy it while they're at the show,
12 but it's the economics.

13 All nonprofits -- and we are a nonprofit -- have
14 the same problem. Our problem is much more expansive
15 because we've got a huge facility that takes a lot of time
16 and a lot of people to administer and to run well.

17 If you talk to any of the performers in there --
18 a couple years ago, talking to Yo-Yo Ma, and he said he
19 had never seen a facility like that in the country that we
20 have here. For a community our size, he had never seen
21 anything so well run, with so many people giving their
22 time and so much passion into it. And he couldn't
23 understand how we could do it and make it work because
24 most centers around the country, it doesn't work. It
25 works because you've got a good couple of citizens who

1 finance it for years, like a symphony almost. Symphonies
2 are very, very difficult, performing arts center.

3 To answer Bruce's question, it's important for
4 the economic activity to have it run well and efficiently.
5 And it would be extremely difficult without it.

6 Sorry I elaborated too much, but --

7 MR. HAYNES: If I -- if I could say something.
8 Our mission requires us to provide a facility for all
9 kinds of different venues, and whether it's a -- whether
10 it's a halau or -- or whatever performance it is. And,
11 quite frankly, a lot of those venues we lose money on, but
12 that is our mission, to provide this facility. And so we
13 have to be creative and -- and have performances that can
14 provide some money and funding to subsidize those things.
15 So it's a delicate balancing act that we're performing
16 here. But we have a multiple amount of events here that
17 we make no money on, we lose -- actually lose money on,
18 but that's in our mission and we have to provide that.
19 And we feel that that's integral to the -- to the
20 community to do that.

21 MEMBER UEOKA: I have a question.

22 CHAIR FUJII: Question? Go ahead.

23 MEMBER UEOKA: Is the program committee aware of
24 the regulations that govern the center, like -- like the
25 ones that are supposedly violated here? Like did they

1 know that you're not supposed to have nudity and not
2 have -- because you said the program committee selects --

3 MR. MANCINI: No.

4 MEMBER UEOKA: No.

5 MR. MANCINI: The program committee sets
6 policy --

7 MEMBER UEOKA: Okay.

8 MR. MANCINI: On this. And that's what Jimmy
9 was trying to think of. We're going to deal with this.
10 We have not addressed it as a policy issue in -- in the
11 past. The staff deals with the -- it's an executive
12 decision to come up with the programming, to see the
13 economics of each programming.

14 MEMBER UEOKA: And to determine whether or not
15 your facility will be rented for a particular --

16 MR. MANCINI: Yeah, that's --

17 MEMBER UEOKA: Yeah.

18 MR. MANCINI: That's an executive decision.

19 MEMBER UEOKA: Okay.

20 MR. MANCINI: The board doesn't get involved.

21 MEMBER UEOKA: Okay. So backing up, are those
22 people who make those decisions aware of these kinds of
23 regulations?

24 MR. MANCINI: They have to be.

25 MR. HAYNES: They are.

1 MEMBER UEOKA: Okay. So they are. So it was
2 like a mistake?

3 MR. MANCINI: As I said, with a little more
4 thorough review of all of it, this wouldn't have happened.

5 MEMBER UEOKA: Okay.

6 CHAIR FUJIII: Any other questions?

7 MEMBER UEOKA: So what's the limit of the liquor
8 license now in the facility?

9 MR. MANCINI: Well, the facility generally is
10 licensed in most of its areas other than the Castle, the
11 Schaefer Gallery and McCoy.

12 MEMBER UEOKA: Okay.

13 MR. MANCINI: Those areas have never had any
14 food and beverage in there.

15 MEMBER UEOKA: Service.

16 MR. MANCINI: They're for performances only.

17 MEMBER UEOKA: Uh-huh. Uh-huh.

18 MR. MANCINI: And it's always been -- been that
19 way. And, unfortunately, sometimes people lose track of
20 a -- the transition over time, over time. And it was a
21 decision made back in 2012, and, obviously, it had
22 unintended consequences. It was supposed to have positive
23 consequences, and it -- it didn't have the positive
24 consequences. It's been changed since.

25 MEMBER UEOKA: So are there things that you're

1 thinking of doing to monitor and enforce those kinds of
2 regulations as you go forward?

3 MR. MANCINI: I believe so, yes. Again, this
4 ends up to be policy issues. And that's what Jimmy --

5 MR. HAYNES: Yeah, we're gonna re -- we're gonna
6 address this on the board level and see that, hopefully,
7 this never happens again.

8 MEMBER UEOKA: Thank you, Dr. Haynes. Thank
9 you, Mr. Mancini.

10 CHAIR FUJIII: Any -- any other question? One --
11 go ahead.

12 MEMBER U`U: Who pays the fine, the MACC?

13 MR. HAYNES: The MACC. Yeah, I don't think I --
14 I don't think we have any recourse against --

15 MEMBER U`U: Just asking.

16 MR. HAYNES: -- Thunder From Down Under.

17 CHAIR FUJIII: One final question, then. You
18 have a promotions committee. And like a show like Ms. Cho
19 and something like Thunder from Down Under, there's -- of
20 course, it -- you gotta be over 21 to attend, right, for
21 any adult type of -- like you do Ms. Cho, she has a bad
22 vocal --

23 MEMBER UEOKA: Her language.

24 CHAIR FUJIII: Language, yeah. So, anyway, who
25 does -- the promotion committee decides when it's 21 and

1 over, or how does that work?

2 MR. MANCINI: Well, it -- it should be the board
3 sets policy. And the policy, obviously, is -- is for the
4 administration to implement. And if you have an adult
5 show, obviously, it ought to be regulated that way, as an
6 adult show. We -- in my experience, I can't recall adult
7 shows like that -- like that in -- in the past.

8 But as I said, life gets complex over time --
9 over time. And if you -- I've gone to a couple of
10 programs at the Iao Theater and sometimes I'm shaking my
11 head with the language that -- that you hear there, and
12 there are children there. I'm not much to watch cable
13 stations, but if you turn to cable TV these days, you get
14 a little bit concerned.

15 CHAIR FUJII: About the general public, yeah.

16 MR. MANCINI: Yeah, you get concerned with
17 regard to the language and -- and things, and the
18 appropriateness of situations. And as I said, we're --
19 we're trying to find our way through -- through those
20 issues. And it's not easy dealing with a facility like
21 this and the programming issues and the community's needs,
22 which we've got a very diverse community here with very
23 diverse needs.

24 CHAIR FUJII: Yeah.

25 MR. MANCINI: And -- and it's -- it's different

1 markets and it's a complex issue. That's what I was
2 trying -- one of the points I was trying -- there's a
3 bunch of complexity here that it doesn't show itself at
4 first -- first glance, but it's there. You've got to go
5 through it. It's interesting if you find these things
6 interesting.

7 CHAIR FUJII: No further questions?

8 MR. KUSHI: Mr. Chair, if I may? More directed
9 to staff. Mr. Mancini made a statement saying that when
10 this happened, the Castle Theater was part of the licensed
11 premises.

12 DIRECTOR MUKAI: Yes. Since then --

13 MR. KUSHI: Since that time, they took it away?

14 DIRECTOR MUKAI: Yes. So no -- no longer we
15 have jurisdiction over Castle Theater.

16 MR. KUSHI: So -- so you're saying that the
17 licensed premises is that bar area --

18 DIRECTOR MUKAI: Well --

19 MR. KUSHI: -- where they serve?

20 DIRECTOR MUKAI: No. They still have certain
21 areas, but he removed the Castle Theater and the other two
22 facilities.

23 MR. KUSHI: So where they have --

24 DIRECTOR MUKAI: So whatever the --

25 MR. KUSHI: Where they have service, that's the

1 licensed area?

2 DIRECTOR MUKAI: Well, previous other licensed
3 area was -- include the whole grounds.

4 MR. KUSHI: Correct. So, I mean --

5 DIRECTOR MUKAI: But now we -- by removing it --

6 MR. KUSHI: So --

7 DIRECTOR MUKAI: So they have that courtyard on
8 the -- that --

9 MR. KUSHI: The courtyard is the licensed
10 premises?

11 MR. MANCINI: (Inaudible.)

12 MR. KUSHI: So you're saying that -- because
13 this may happen again. You're saying that I can drink --
14 people can drink wherever they want as long as they're in
15 a licensed premises?

16 DIRECTOR MUKAI: Right.

17 MR. KUSHI: And since the Castle Theater is not
18 part of it. Anything and everything can happen in there
19 and you guys have no jurisdiction?

20 DIRECTOR MUKAI: Yes, because we only have
21 jurisdiction over the licensed premises.

22 MR. KUSHI: But the -- the licensed premises is
23 to serve and accommodate the Castle Theater.

24 DIRECTOR MUKAI: Yeah, but if it's not part of
25 the licensed premises, we have no jurisdiction.

1 MR. KUSHI: But you cannot even get into the
2 licensed premises unless you have a ticket, right?

3 DIRECTOR MUKAI: Not necessarily, because the
4 walkway as you enter is -- is not part of licensed
5 premises.

6 MR. KUSHI: Is that correct?

7 MR. MANCINI: The boundary of it, the licensed
8 premises ends, basically, in that courtyard area that's --
9 that's there.

10 MR. KUSHI: Okay. So anybody can come in and
11 have drinks in the licensed premises even if they don't
12 have a ticket?

13 MR. MANCINI: Yeah. You need a ticket to get
14 into the show.

15 MR. KUSHI: The show.

16 MR. HANANO: Yeah. Chair, if I could make a
17 comment on -- on this discussion. And thank you,
18 Mr. Mancini, for putting a perspective on the history of,
19 you know, the -- the MACC and everything because that does
20 put it in perspective. You know, we're not here to, you
21 know -- I'll say this. The entertainment that -- you
22 know, whether or not this event was consistent with the
23 goals and objectives of the mission of the MACC, you know,
24 we -- we don't get involved in that. When I say we, I'm
25 saying our Department and the Liquor Department. But what

1 we're here for and the reason why we're here today is
2 because the Castle Theater was part of the service area.
3 And even though, you know, whether or not they chose not
4 to allow liquor in that -- in the Castle Theater, that's a
5 different -- that's a different matter. You know, the
6 reason we're here today is because it was allowed.
7 Whether they choose to do it or not, that's another
8 matter, but, because it's allowed, that triggers the Rules
9 of the Liquor Commission. And, therefore, under the
10 rules, you know, if we're gonna apply the rules
11 evenhandedly, it is a violation. And, you know, this
12 would be no different if it was at some other bar or
13 restaurant. If they put on that kind of performance, you
14 know, we would do an investigation and whether or not we
15 would charge, that's another matter. But the bottom line
16 is no -- we're here to uphold the laws and apply the laws
17 evenhandedly. And that's what happened in this case. You
18 know, we were able to work something out, you know, and --
19 and I'm glad we were, but, you know, we're not here to
20 dictate to the MACC or anyone else what kind of
21 entertainment they want to have as long as it doesn't, you
22 know, violate the Rules of the Liquor Commission.

23 MR. KUSHI: Okay. So -- so as it is right now,
24 since Castle Theater is not part of the licensed premises,
25 they can have a full-on strip show in there?

1 MR. HANANO: That -- that wouldn't -- you know,
2 if they -- let me put it this way: If they were to put
3 the same performance on that they did today, we wouldn't
4 get involved.

5 MR. KUSHI: Okay. Because I -- I think I recall
6 this group is coming again.

7 MR. MANCINI: Not at the MACC.

8 MR. HAYNES: No.

9 MR. KUSHI: No? Okay. Maybe someplace else.

10 MR. HAYNES: I can promise you that.

11 MR. MANCINI: I like the way you read that,
12 though.

13 MR. HANANO: If they do it at a licensed
14 premises, then there might be an issue, but if they do it
15 in the -- in the Castle Theater, then we wouldn't -- we
16 wouldn't get involved.

17 CHAIR FUJII: Thank you, Mr. Hanano. I think
18 that'll clear matters when we get into deliberation, that,
19 again, at the time that it was a licensed area, the MACC
20 had control over it. We, the Department, in this case,
21 the Department had control over it. And that helps us,
22 you know, of course, Mr. Mancini has explained the status
23 currently, and it's also gonna be considered in our
24 deliberation.

25 Mr. Hanano, what would be the Director's

1 argument as to penalty?

2 MR. HANANO: Mr. Chair, thank you. License for
3 this licensee was issued back in August of 1994. There
4 are prior convictions for liquor-related violations, but
5 none similar to the ones that we have here today. So in
6 light of that, in Count 1 and 3, we're gonna recommend a
7 \$250 fine in each count.

8 CHAIR FUJII: Thank you, Mr. Hanano. The Board
9 will take this matter into consideration. I would like to
10 entertain a motion to go into deliberation.

11 MEMBER U`U: Motion to deliberate.

12 CHAIR FUJII: Moved by Bruce.

13 MEMBER HELM: Second that.

14 VICE-CHAIR PAGAN: Second.

15 MEMBER TANAKA: Second.

16 CHAIR FUJII: Seconded by Wayne. All in favor
17 of the motion, say "aye."

18 (Response.)

19 CHAIR FUJII: Motion carried.

20 MR. MANCINI: Thank you, Chair.

21 (Recess, 9:38 a.m. to 9:49 a.m.)

22 CHAIR FUJII: The Board is back in open session.
23 Mr. Mancini, Mr. Haynes, the Board has deliberated on both
24 Count 1 and Count 3. The Board, on Count 1, have
25 recommended a letter of reprimand by the Department.

1 Regarding the charges on Count 1, written reprimand. On
2 Count 3, the Board has issue issued a penalty of \$250 of
3 which the penalty can be suspended provided there is no
4 reoccurrence of the same violation within a period of one
5 year.

6 So we are pleased that you were here to explain
7 all that needed to be explained. And we know that Maui
8 Arts & Cultural Center provides a great service to the
9 community. And I know you folks working as the best you
10 can on it. Mr. Mancini.

11 MR. MANCINI: We -- we wish to thank the Board
12 for -- for letting us speak and explain our -- the issues
13 here. And we wish everyone a happy new year and a
14 prosperous new year. Thank you very much for your time.

15 MR. HAYNES: Thank you.

16 MEMBER TANAKA: Thank you.

17 CHAIR FUJII: Thank you for coming. And the
18 Board -- the Department will notify you about the
19 penalties.

20 MR. MANCINI: Okay. Thank you very much.

21 CHAIR FUJII: Okay. Mr. Mukai, do we have any
22 pending business that you want to present to the Board
23 today?

24 DIRECTOR MUKAI: No. I believe you all have the
25 travel policy that we passed out.

1 CHAIR FUJII: Yeah.

2 DIRECTOR MUKAI: It's a reminder on how we run
3 the policies, that travel and airfare and rental cars is
4 by our department. We make the reservations and we pay
5 through a pCard according to County policy.

6 CHAIR FUJII: Okay. Anybody -- any questions,
7 anyone else, before we adjourn? Okay. Someone make a
8 motion to adjourn.

9 MEMBER U`U: Motion to adjourn.

10 MEMBER HELM: Second.

11 CHAIR FUJII: We are adjourned. Okay. Thank
12 you, everybody. (Gavel.)

13 (Meeting adjourned, 9:50 a.m.)

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CERTIFICATE

I, TONYA MCDADE, Certified Court Reporter of the State of Hawaii, do hereby certify that the proceedings contained herein were taken by me in machine shorthand and thereafter was reduced to print by means of computer-aided transcription; and that the foregoing represents, to the best of my ability, a true and accurate transcript of the proceedings had in the foregoing matter.

I further certify that I am not an attorney nor an employee of any of the parties hereto, nor in any way concerned with the cause.

DATED this 30th day of January, 2017.

/s/ Tonya McDade

Tonya McDade
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