

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, March 2, 2017.

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1 BOARD MEMBERS PRESENT:

2 Donald Fujii, Chairperson

3 Wayne Pagan, Vice-Chairperson

4 Candace Ariaga, Member

5 Jerrybeth De Mello, Member

6 Zachary Helm, Member

7 Doris Tanaka, Member

8 Gwen Ueoka, Member (In, 9:37 a.m.)

9 Bruce U`u, Member

10 STAFF PRESENT:

11 Edward Kushi, Jr., First Deputy Corporation Counsel

12 Peter Hanano, Deputy Prosecuting Attorney

13 Glenn Mukai, Director

14 Mark Honda, Deputy Director

15 Kayle Matsushima, Liquor Control Officer III

16 Sarah Cordeiro, Secretary to Boards/Commissions II

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(Thursday, March 2, 2017, 9:00 a.m.)

CHAIR FUJII: Good morning. Meeting of the Liquor Control Adjudication Board now called to order pursuant to Section 281-91 of the Hawaii Revised Statutes and Section 8-13.3 of the Charter of the County of Maui to consider the matters and issues as posted on today's agenda. At this time, I would like the Board members and staff to please introduce yourselves, starting with our Secretary.

MS. CORDEIRO: Sarah Cordeiro, Liquor Control.

MEMBER DE MELLO: Jerrybeth De Mello from Lahaina.

MR. ARAKAWA: Candace Ariaga, Lanai.

MEMBER TANAKA: Doris Tanaka from Wailuku.

MEMBER HELM: Zach Helm, Molokai.

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

CHAIR FUJII: Donald Fujii, Wailuku.

VICE-CHAIR PAGAN: Wayne Pagan, Upcountry.

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

DIRECTOR MUKAI: Glenn Mukai, Liquor Control.

DEPUTY DIRECTOR HONDA: Mark Honda, Liquor Control.

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

1 MS. MATSUSHIMA: Kayle Matsushima, Liquor
2 Control.

3 CHAIR FUJIII: Thank you, everyone. At this time
4 we will now hear Complaint and Accusation Number 2017-11
5 against Lanai Island Management Inc. doing business as
6 Lana`i City Grille. Will the Respondent or its
7 representatives please step forward and state your name
8 and what capacity you represent the Respondent.

9 MR. NAKAMURA: Good morning, Mr. Chair, Members
10 of the Board. Craig Nakamura, attorney on behalf of the
11 licensee. And with me is Ms. Lesley Kaneshiro, who is the
12 Senior Vice President of Operations of Pulama Lanai, and,
13 also, Roger Alconcel, he is the Retail Manager for Hotel
14 Lanai.

15 CHAIR FUJIII: Thank you. Mr. Nakamura, at this
16 time you have the option of having the charges publicly
17 read or you can waive the reading. What is your
18 preference?

19 MR. NAKAMURA: We'll waive the reading of the
20 charges.

21 CHAIR FUJIII: So, again, Mr. Nakamura, for the
22 record, do you represent the Respondent involved?

23 MR. NAKAMURA: Yes, I do.

24 CHAIR FUJIII: Are you their legal counsel?

25 MR. NAKAMURA: Yes, I am.

1 CHAIR FUJII: Do you understand -- do you and your
2 clients understand the charges against you?

3 MR. NAKAMURA: Yes, we do.

4 CHAIR FUJII: What is your plea to Count 1 and
5 2?

6 MR. NAKAMURA: No contest.

7 CHAIR FUJII: Do you understand the violations
8 the Department of Liquor Control alleges against you?

9 MR. NAKAMURA: Yes, we do.

10 CHAIR FUJII: Do you understand that you have
11 the right to plead not guilty?

12 MR. NAKAMURA: Yes, we do.

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

17 MR. NAKAMURA: Yes, we do.

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

21 MR. NAKAMURA: Yes, it is.

22 CHAIR FUJII: Do you understand that, on each
23 count, if the Board accepts your plea of no contest, you
24 will be found guilty and that the Board may issue a
25 reprimand or assess and collect a penalty -- penalty of up

1 to \$2,000, or revoke any license at any time, or suspend
2 the right of the licensee to use the licensee's license?

3 MR. NAKAMURA: Yes, we do.

4 CHAIR FUJII: Do you still wish to plead no
5 contest?

6 MR. NAKAMURA: Yes.

7 CHAIR FUJII: The Board hereby finds that the
8 licensee has entered a knowing and voluntary plea of no
9 contest. The Board accepts your plea and finds you guilty
10 on Count 1 and Count 2 reflected in Complaint and
11 Accusation Number 2017-11. At this time, we would like
12 the Department to present a summary of the case.
13 Mr. Hanano.

14 MR. HANANO: Yes. Thank you, Mr. Chair.

15 MR. KUSHI: Chair, before you proceed -- excuse
16 me -- what's the status on Count 3?

17 MR. HANANO: Oh, yeah. I was gonna --

18 MR. KUSHI: For the record.

19 MR. HANANO: Just for the record, Count 3 has
20 been dismissed with prejudice pursuant to a plea agreement
21 with the licensee.

22 CHAIR FUJII: The Board accepts the dismissal of
23 Count 3.

24 MR. HANANO: Thank you, Chair.

25 In late October of 2015, the Department of

1 Liquor Control initiated an investigation into an October
2 22, 2015 incident, at the Lana`i City Grille located at
3 828 Lanai Avenue, Lanai City, Lanai, Hawaii. This
4 incident was documented by the police.

5 And according to the police investigation, a
6 female patron, identified as Jina Lopez, was overly
7 intoxicated and had fallen in the parking lot after
8 closing. Lopez had purportedly struck her head on the
9 ground which caused a tennis ball size hematoma on her
10 forehead.

11 She was later taken to the emergency room for
12 treatment where hospital staff observed the female
13 behaving erratically. Maui Police Department Officer
14 Michael Bocon, who assisted in the emergency room,
15 observed Lopez to be combative, aggressive, displayed
16 erratic mood swings such as crying one moment, then
17 laughing the next, followed by cursing profanities at
18 everyone.

19 At that time, Lopez told Officer Bocon that she
20 had consumed only two Long Island Ice Tea drinks that
21 night; however, Lopez's cousin, Makana Lopez, who was part
22 of the entertainment group that night at the Lana`i City
23 Grille, stated he observed Lopez drinking two Long Island
24 Iced Tea drinks as well as several shots of hard liquor.
25 Further, Makana Lopez told police that he tried to get

1 Lopez out of the bar and offered to take her home when
2 Lopez fell in the parking lot.

3 Officer Bocon noticed Lopez had a smell of
4 alcohol on her breath, slurred speech, fumbled and dropped
5 things several times, and was unable to stand upright
6 without assistance.

7 According to the bartender on duty that night,
8 Jacob Baltero, Lopez arrived at Lana`i City Grille just
9 before 7:00 p.m. that night and stayed until closing,
10 which was about 11:00 p.m. According to Baltero, Lopez
11 was sober when she entered the premises. He also recalled
12 serving Lopez two Long Island Iced Tea drinks and
13 commented that another customer paid for two mixed alcohol
14 drinks and asked him to give it to Lopez.

15 Further, investigation of the detailed sales
16 report showed liquor sales which were somewhat consistent
17 with the reports of what Lopez consumed that evening.

18 Thank you, Chair. No further.

19 CHAIR FUJII: Mr. Nakamura -- any questions for
20 Members of the Board regarding the presentation of the
21 Prosecutor? Any -- any questions about any of the report?
22 Okay, no questions. At this time, Mr. Nakamura, you have
23 the opportunity to make a statement regarding this case.
24 You may also inform the Board of any mitigating
25 circumstances which may or may not approve -- may not

1 apply to sentencing.

2 MR. NAKAMURA: Thank you very much, Mr. Chair.
3 We're here today before the Board, as you know we -- we
4 pled no contest to these charges. We're not here to make
5 any excuses, but what we do wanna show the Board is that
6 the Lana`i City Grille, the Hotel Lanai, treats these
7 matters very seriously. We have a training process in
8 place prior to the incident. There have been some changes
9 also made after the incident. And that we're doing
10 everything we can to make sure that these types of things
11 do not happen again.

12 And in that matter, I would like to first
13 introduce Mr. Alconcel, who is going to give us a brief
14 presentation. And I've handed out a packet of photos and
15 other documents that we're going to be referring to during
16 the course of the presentation.

17 MR. ALCONCEL: Thank you.

18 MR. NAKAMURA: Thank you.

19 MR. ALCONCEL: Good morning. So I wanted to
20 talk about Jacob Baltero first. He is the -- he was the
21 bartender that night. He has 16 years experience at the
22 hotel. As a bartender, he has eight years of experience.
23 So after that incident, I had a chance to talk to Jacob,
24 during that night, as far as what happened. What he
25 mentioned to me was that he noticed Jina coming in at

1 7:00. And that night, we have like around 50 customers,
2 20 was around at the bar area. And he mentioned that, you
3 know, he was busy. And from what he remembered, he served
4 three drinks. Later, during that evening, he noticed that
5 Jina was crying. So at that time he kind of figured, you
6 know what, she's intoxicated.

7 Makana Lopez is Jina's cousin who was performing
8 that night. So because of that, you know, he looked at
9 Makana. And in Lanai, they don't have like taxi
10 transportation or what-have-you. So he looked at Makana
11 and said, hey, Makana -- you know, because Makana is
12 Jina's cousin, so he looked at Makana and said, hey, can
13 you drive Jina home because looks like she's drunk and
14 what-have-you. And then Makana, yeah, said, no problem,
15 I'll drive her home and what-have-you.

16 You know, when Jacob mentioned that to me, I
17 told him that, you know, that is a serious offense. We
18 need to make sure that, you know, we watch our customers
19 and make sure that we don't over-serve and watch the
20 behavior of our customers just to make sure. And make
21 sure that they drive home safely. So I did talk to him
22 that day -- I mean, after the incident, that it was very
23 serious offense.

24 On the 25th, that would -- they said it happened
25 on Thursday. So on Sunday, we have another bartender,

1 Marcom, Marcom Pasqual. So I met with the two, told them
2 that, hey, we need to discuss as far as what happened. We
3 went over the bartender's responsibility that
4 over-serving -- making sure our customer safety is very
5 important and be sure that no -- guests coming on property
6 intoxicated, they need to be removed right away. But,
7 yeah, that Sunday, we actually went over as far as their
8 responsibilities.

9 December 2nd, that was a month later, we also
10 had a training with all the staff, went over all the
11 staff, and mentioned to them as far as the importance of
12 making sure that we watch each customer and to make sure
13 that we don't over-serve, and just watch their appearance.

14 During this time in this incident, we had a lot
15 of construction workers on island, rough -- approximately
16 400 customers. We had karaoke nights on Wednesday. And
17 Friday, we had live music. So, usually, we sit down with
18 the staff during pre-shift, try to reiterate, hey, make
19 sure we don't over-serve, just watch, you know, the
20 serving of the liquor.

21 During this time -- just -- I just want to go
22 back -- for our bartenders, it's important for them to
23 have a liquor card. So if they don't get the liquor card,
24 so Marcom and Jacob, they can't work as a bartender. So
25 that's the requirement prior to the incident that we had.

1 Most of our staff also went to a TIPS training that was
2 held in January 22nd, 2015. And we, actually, have an
3 exhibit as far as who attended the training.

4 MR. NAKAMURA: So that the first -- just -- if I
5 could just interrupt for a second. The first three
6 exhibits that we've given you -- Exhibit 1 is Jacob's
7 certification card from the Liquor Department. The second
8 exhibit is a list of all of the employees at the Hotel
9 Lanai who have their liquor certification cards and the
10 third exhibit is -- this is a roster of the employees who
11 participated in the TIPS training. I think most of you
12 are familiar with the TIPS training. It's kind of a
13 national training for service and consumption of liquor
14 related to bartenders and servers. And they receive a
15 certification card once they finish this training.
16 This -- this is a roster showing that all of these
17 individuals took this training back in 2015. And the next
18 one is Jacob's certification card from TIPS showing that
19 he did go through the training process.

20 So I guess the purpose of that is just to show
21 that, you know, we do train the employees pretty well.
22 They get both their liquor cards from the Maui County
23 Liquor Department as well as have the TIPS training.
24 And -- and showing the list of people who are employees
25 who have actually gone through that training.

1 MR. ALCONCEL: Craig did talk about like a
2 seriousness as far as violation. And it's a part of our
3 policy and procedure, if they do, you know, violate our
4 policy and procedure, they'll be disciplined. Lesley is
5 going to talk more about what -- what happened after the
6 incident, like what changes that we're doing for the
7 restaurant.

8 MR. NAKAMURA: Yeah. Then Exhibit 5 is, of
9 course, the poster, the "Be Aware" poster, just to show
10 that we do have this posted in the premises to advise
11 people about the implications of drinking and driving and
12 so forth.

13 MS. KANESHIRO: So the -- excuse me. The Be
14 Aware sign is posted at the exit of the restaurant. So
15 when they're going out, you can see it. We also have it
16 posted by our bar, by our point of sale cashier register
17 there at the bar for -- as a reminder to our employees.
18 We also have it posted in the back in the kitchen on our
19 employee bulletin board.

20 So I wanted to share with you a little bit of
21 what else the company has done. We do take this very
22 seriously. And we -- we want the restaurant to be there
23 for the community and the residents and visitors to Lanai.

24 For Jacob Baltero, just so the -- you
25 understand, our Human Resources has issued him a written

1 warning. We sat down and we discussed with him. It sits
2 permanently in his employee file. He understands that.
3 He understands the severity of the situation that
4 occurred. He also understands that if there's another
5 situation, that this may lead to termination of his
6 employment with our company.

7 Roger talked about some of the follow-up
8 meetings that we had with our -- both our bartenders on
9 October 25th of 2015. Roger met with them, and they
10 discussed the importance of over-serving and making sure
11 that we really -- we watch our customers as they come into
12 the restaurant.

13 Roger also talked about the staff meeting that
14 we held on December 2nd of 2015. We had the restaurant
15 manager, Roger, also, as a retail manager, and all of our
16 staff there to talk about what happens and how to manage
17 and control our guests, especially when we have busy
18 evenings.

19 We, also, have daily pre-shift meetings. Every
20 day, the crew that comes in before we start service at
21 5:00, chef comes out, talks about the specials, but it's
22 our opportunity to remind our staff, whether it's a busy
23 night or just a regular night, you know, reminding them
24 about being cognizant of our guests coming in and how we
25 monitor and talk with our customers as they're dining with

1 us.

2 On -- after we received the hearing notice, on
3 February 21st, we had a meeting with all of our employees.
4 And what we did was we went over the notice of violation,
5 we talked to them about the -- the information that was
6 presented to us, the investigation. We wanted them to
7 really understand what this means for everybody, both as a
8 employee and as an organization.

9 We -- we had them view the on-premises liquor
10 consumption video that's up on the Maui website as a
11 reminder and a training tool for them, so that they could
12 see -- and it's just a refresher. Right? We always want
13 them to know we talked about the video after we viewed it.

14 On Exhibit 6, in your packet, you can see the
15 names of all the employees that attended that day, yeah.
16 We had everybody, we had 100 percent attendance, by all
17 the bartenders and the servers for the restaurant.

18 Whether they were working that night or not, we brought
19 them all in that day.

20 We are -- we have confirmed to redo our TIPS
21 training. We were able to confirm a class for March 27th
22 of this month with Mr. John McCabe. All of our bartenders
23 and servers will be attending that training. We're gonna
24 hold it on a evening where the restaurant is normally
25 closed, on a Monday night. And we're going to bring

1 Mr. McCabe over to Lanai that afternoon, he'll stay over
2 and then return back to Honolulu the next morning.

3 Our company is, also, in the process of creating
4 a training program for new employees, other retail
5 departments, who sell and dispense alcohol to customers.

6 You know, since 2015, at the time of the
7 incident, the restaurant has changed a lot, also. In --
8 in December of 2016, just a couple months ago, we
9 renovated, we did a small refresh in the restaurant. We
10 repainted the interior. We hired a new chef. We redid
11 our whole menu. We got new plates and dishes, flatware.
12 And the restaurant has a very different vibe now. The
13 target is more to the families and to visitors on island.
14 We no longer have theme nights like karaoke nights like
15 what we did in the past.

16 There's definitely a lot less construction
17 workers on island, like when Manele was being renovated.
18 You know, the -- I think what we wanted to share is that
19 the restaurant has changed and that will allow us to
20 ensure that these situations don't happen in the future.

21 CHAIR FUJII: Thank you, Ms. Kaneshiro. Thank
22 you.

23 MR. NAKAMURA: And just to -- just to conclude,
24 you know, we're here again, we have senior management of
25 the -- of the operations here to just advise the Board

1 that we do treat these matters very, very seriously. We
2 do have what we felt was a comprehensive training process
3 in place. We're going to, you know, add to that now, as
4 you've heard. And, again, we apologize for the -- this
5 incident and we'll do everything we can to make sure that
6 it doesn't happen again. Thank you. We'd be happy to
7 answer any questions that the Board has.

8 CHAIR FUJII: Okay.

9 MR. NAKAMURA: Yeah.

10 CHAIR FUJII: Questions are now open for the
11 licensee by Members of the Board, if you want to direct
12 any questions to Mr. Nakamura or the people from Lana`i
13 City -- Lana`i City Grille. Question, Mr. --

14 DIRECTOR MUKAI: One --

15 CHAIR FUJII: -- Mukai.

16 DIRECTOR MUKAI: -- advice. Be aware of the
17 TIPS. We attended the TIPS program, there's several areas
18 where the TIPS is in conflict with the rules -- like I
19 believe the TIPS are telling you when you have a person
20 under the influence in your premises, you sit 'em down,
21 talk to 'em and let 'em remain in the premises, give 'em
22 coffee, that, as you see, Count 2, you cannot allow
23 someone. So you can contact our staff, our educational
24 staff, so they can go over with you what the conflicts
25 are. If you need further education, we can send our staff

1 over to work with you.

2 MS. KANESHIRO: That would be great.

3 MR. ALCONCEL: That'd be great.

4 MS. KANESHIRO: Yes. We'd welcome that.

5 DIRECTOR MUKAI: Yeah, just give us that call
6 and they'll -- we'll send people over.

7 MS. KANESHIRO: Okay. Thank you.

8 CHAIR FUJII: I understand you said you close on
9 Monday evenings. That's your only day that's -- it's open
10 six days a week, is that --

11 MS. KANESHIRO: Right -- right now, yes. We
12 just -- we -- we may, in the future, open seven days a
13 week. We're there really for the community. If -- if
14 there is a need to have, you know, restaurant open and
15 people want to come, then we --

16 CHAIR FUJII: And what are the hours?

17 MS. KANESHIRO: We -- we only serve dinners, so
18 it's 5:00 to 10:00 with the last seating at 9:00 p.m.
19 right now. Yeah.

20 CHAIR FUJII: Any further questions anyone want
21 to direct to the licensee?

22 MR. KUSHI: Mr. Chair, question. Craig, if you
23 know, and if you want to tell us, this customer fell down
24 in the company parking lot?

25 MR. NAKAMURA: That's what I understand.

1 MR. KUSHI: And did she file any kind of claim
2 against the bar?

3 MR. KANESHIRO: No.

4 CHAIR FUJII: Again, when we say company, this
5 ownership by Lanai or is this a private company that --

6 MR. NAKAMURA: No. This is owned by the
7 major -- Pulama Lanai.

8 CHAIR FUJII: Pulama Lanai owns --

9 MR. NAKAMURA: Yes.

10 CHAIR FUJII: -- the property of the business?

11 MR. NAKAMURA: Yes.

12 MR. KUSHI: This happened two years ago, so
13 she's got couple more months, right?

14 MR. NAKAMURA: I'm sorry?

15 MR. KUSHI: If she wanted to file a claim.

16 MR. NAKAMURA: Oh, yeah.

17 MR. KUSHI: 'Cause if she files a claim, we'll
18 probably be (inaudible). You have insurance, right?

19 MR. NAKAMURA: I'm sure.

20 CHAIR FUJII: Liability.

21 MEMBER DE MELLO: I have a question.

22 CHAIR FUJII: Go ahead.

23 MEMBER DE MELLO: If she fell in the parking lot
24 of Pulama Lanai, are you folks responsible for that or is
25 the company responsible?

1 MR. NAKAMURA: Well, the -- the -- okay. So --
2 so we understand a little bit about the entities. There's
3 a -- there's a entity that -- that operates this
4 particular hotel and restaurant.

5 MEMBER DE MELLO: Uh-huh. Uh-huh.

6 MR. NAKAMURA: But it's either affiliated with
7 or a subsidiary of the main parent company. So -- so, I
8 mean -- I mean, that discusses a little bit who might be
9 responsible. As to whether or not they are responsible, I
10 mean, we -- I don't think we could say that at this point
11 because, you know, there's a lot of factors going into
12 whether or not a person -- or someone can be liable for
13 this type of injury.

14 MEMBER DE MELLO: Does -- Pulama Lanai still
15 owns the -- the hotel?

16 MR. NAKAMURA: Yes.

17 CHAIR FUJII: How long has this business been
18 operating, Lana`i Grille -- as Lana`i City Grille?

19 MR. NAKAMURA: I am just going back through my
20 records and looking for the approval letter. I believe it
21 was 2014.

22 MS. KANESHIRO: Yes.

23 MR. ALCONCEL: Yeah.

24 MR. NAKAMURA: Approximately 2014. Before that,
25 it was under private ownership.

1 MR. ALCONCEL: Yeah.

2 CHAIR FUJII: Okay. That's why it wasn't
3 recognizable. I been here, but --

4 MR. NAKAMURA: Okay. The name --

5 CHAIR FUJII: -- the name has changed.

6 MR. NAKAMURA: Right.

7 CHAIR FUJII: The ownership has -- thank you.
8 If no further questions, then, Mr. Hanano, what would be
9 the Director's argument as to penalty?

10 MR. HANANO: Yes. Thank you, Mr. Chair.
11 License for this licensee was issued back in February of
12 2015. There are no prior convictions. In light of that,
13 we're recommending, in Count 1, a \$2,000 fine with \$1,000
14 suspended on the condition that there are no further
15 convictions for the same offense within a year. And on
16 Count 2, we'll recommend a \$100 fine.

17 CHAIR FUJII: How many?

18 MR. HANANO: \$100, 100.

19 CHAIR FUJII: \$100.

20 MR. HANANO: Yeah.

21 CHAIR FUJII: Count 2?

22 MR. HANANO: Count 2, yes. Thank you.

23 CHAIR FUJII: Got it. Okay. The Board will
24 take all matters into consideration. We've heard from the
25 licensee, we've heard from the prosecutor. At this time,

1 I'd like to entertain a motion to go into deliberation.

2 MEMBER TANAKA: So moved.

3 MEMBER DE MELLO: So moved.

4 CHAIR FUJII: Okay.

5 MEMBER ARIAGA: Second.

6 CHAIR FUJII: Moved and seconded. All in favor,
7 say "aye."

8 (Response.)

9 CHAIR FUJII: Okay. We'll go into deliberation.
10 We'll call you back. Thank you.

11 MR. NAKAMURA: Thank you.

12 MR. ALCONCEL: Thank you.

13 (Deliberations, 9:23 a.m. to 9:37 a.m.)

14 CHAIR FUJII: The Board is back in open session.

15 Mr. Nakamura and your clients, the Board has deliberated
16 on these two counts that was presented at this hearing.

17 On Count 1, the Board will issue a penalty of \$2,000 of
18 which \$1,000 will be suspended provided there is no

19 similar or same violation for a period of one year. On

20 Count 2, after deliberation, the Board has decided that

21 the penalty will be \$100. That's for Count 2. And the

22 Board -- the Department will notify you when penalty is

23 due. Thank you for coming here and explaining what

24 exactly happened there at the -- on these violations.

25 Again, thank you for coming, Mr. Nakamura.

1 MR. NAKAMURA: Thank you very much. Thank you.

2 MS. KANESHIRO: Thank you.

3 MR. ALCONCEL: Thank you.

4 CHAIR FUJII: The Board would like to welcome
5 Ms. Gwen Ueoka --

6 MEMBER UEOKA: Thank you.

7 CHAIR FUJII: -- for -- for our next hearing.
8 We will now hear Complaint and Accusation Number 2017-13
9 against Uptown Service, Inc. doing business as Uptown Food
10 Mart & Car Wash. Will the Respondent or its
11 representative please step forward and state your name and
12 in what capacity you represent the Respondent?

13 MR. MAKIMOTO: My name is Alvin Makimoto. I'm
14 the owner of Uptown Service, Inc.

15 CHAIR FUJII: Thank you, Mr. Makimoto. At this
16 time, Mr. Makimoto, you can have -- you can have the
17 counts, 1 and 2, publicly read or you can waive the
18 reading.

19 MR. MAKIMOTO: I can waive.

20 CHAIR FUJII: What is your preference?

21 MR. MAKIMOTO: Waive it.

22 CHAIR FUJII: Waive the reading. Again, Mr.
23 Makimoto, for the record, do you represent the Respondent
24 involved?

25 MR. MAKIMOTO: Yes.

1 CHAIR FUJII: Do you have legal counsel?

2 MR. MAKIMOTO: No.

3 CHAIR FUJII: Do you understand that you have
4 the right to have your legal counsel present?

5 MR. MAKIMOTO: Yes.

6 CHAIR FUJII: What is your -- do you understand
7 the charges against you?

8 MR. MAKIMOTO: Yes.

9 CHAIR FUJII: What is your plea to each count?

10 MR. MAKIMOTO: No contest.

11 CHAIR FUJII: Count 1 and Count 2?

12 MR. MAKIMOTO: Yes.

13 CHAIR FUJII: Do you understand that the -- the
14 violations the Department of Liquor Control alleges
15 against you?

16 MR. MAKIMOTO: Yes.

17 CHAIR FUJII: Do you understand that you have
18 the right to plead not guilty?

19 MR. MAKIMOTO: Yes.

20 CHAIR FUJII: Do you understand, by pleading no
21 contest, you waive the right to a hearing in which you
22 could present evidence and question witnesses on your
23 behalf?

24 MR. MAKIMOTO: Yes.

25 CHAIR FUJII: Is your plea of no contest

1 voluntary, and not the result of force, threats or
2 promises apart from any plea agreement?

3 MR. MAKIMOTO: Yes.

4 CHAIR FUJII: Do you understand that, on each
5 count, Counts 1 and 2, if the Board accepts your plea of
6 no contest, you will be found guilty, and that the Board
7 may issue a reprimand, or assess and collect a penalty of
8 up to \$2,000, or revoke any license at any time, or
9 suspend the right of the licensee to use the license?

10 MR. MAKIMOTO: Yes.

11 CHAIR FUJII: You still wish to plead no
12 contest?

13 MR. MAKIMOTO: Yes.

14 CHAIR FUJII: The Board hereby finds that the
15 licensee has entered a knowing and voluntary plea of no
16 contest to Counts 1 and 2. The Board accepts your plea
17 and finds you guilty of Count 1 and 2 reflected in
18 Complaint and Accusation Number 20 -- I'm sorry --
19 2017-13. Will the Department please present a summary of
20 the case, Mr. Hanano?

21 MR. HANANO: Yes. Thank you, Mr. Chair.

22 This case involved a minor decoy operation which
23 took place on Thursday, September 22nd, 2016. The Minor
24 Decoy Team was comprised of Liquor Control officers Marc
25 Weisenfeld, Jarrett Kahoochanohano, Kayle Matsushima,

1 Cullen Kawano and MPD Officer Marvin Tevaga and a male
2 minor decoy.

3 The Minor Decoy Checklist was reviewed with the
4 minor decoy, informing him of the requirements and rules
5 pertaining to minor decoy operations. The rules required,
6 among other things, that the minor decoy carry his valid
7 Hawaii state driver's license on his person at all times,
8 that he answer any questions about his age truthfully,
9 that he present his valid Hawaii state driver's license
10 when asked by any employee of the licensed premises to do
11 so. The minor decoy reviewed and signed the Minor Decoy
12 Checklist indicating he understood what was read to him.

13 The minor decoy's Hawaii driver's license was
14 printed in a vertical format which clearly indicated that
15 the minor decoy became 21 years of age on 10-2-2018 [sic].

16 As part of the operation, the minor decoy was
17 provided with a \$20 bill to use as buy money.

18 On September 22nd, 2016, at about 10:25 p.m.,
19 Officer Tevaga entered the Uptown Food Mart & Car Wash
20 located at 2085 Main Street in Wailuku, Maui, Hawaii.
21 About a minute later, the minor decoy followed Officer
22 Tevaga into the premises. After entering the Food Mart,
23 the minor decoy walked towards the refrigerator area and
24 picked out a six-pack of Heineken Light beer, then headed
25 for the register.

1 Prior to making the sale, the cashier, later
2 identified as Jennie Pacheco, asked for and examined the
3 minor decoy's Hawaii driver's license. Following that,
4 however, Pacheco went ahead and rang up the sale and never
5 asked the minor decoy for his age.

6 After handing Pacheco the \$20 buy money and
7 receiving the change, the minor decoy exited the Uptown
8 Food Mart with the six-pack of Heineken Light beer, which,
9 thereafter, Officer Tevaga informed Pacheco that she had
10 just sold liquor to a minor.

11 As part of the investigation, Jennie Pacheco was
12 interviewed, at which time she provided the following
13 statement: Stated that she had been working for Uptown
14 Chevron for -- for a couple of years and that she never
15 sold liquor to a minor before; stated that there were two
16 other employees working at the store at the time; stated
17 she did not -- she did look at the minor decoy's ID, but
18 that she did not check the date of birth properly;
19 admitted that she did not ask the minor decoy for his age.

20 Thank you.

21 CHAIR FUJII: Thank you, Mr. Hanano. Any
22 questions by Members of the Board regarding the report
23 submitted by the Prosecutor? Are there any questions?
24 Okay. If not, Mr. Makimoto, you now have the opportunity
25 to make a statement regarding this case. You may also

1 inform the Board of any mitigating circumstances which may
2 or may not apply to sentencing. Mr. Makimoto.

3 MR. MAKIMOTO: Thank you, Members of the Board,
4 Chairperson Fujii. I -- we take this very seriously. We
5 are located in a very high exposure area. And we've
6 always been very clear with our cashiers that this is not
7 a -- an option as far as checking for ID for tobacco and
8 for -- for liquor.

9 Jennie at that time was going through a rough
10 time in her life. She was homeless. And I had some
11 problems with her, with her work performance. And I was
12 talking with her and counseling her. And so when this
13 happened, actually, it was, I guess, a blessing in
14 disguise where -- because now she was cited and -- and she
15 went to court and she's placed on probation, she --
16 actually, I guess, it -- it woke her up and it kind of
17 just scared straight. And -- and she, I think, is halfway
18 through paying her fine. And she's been a model employee.

19 And I -- I guess it's easy for an employer
20 like -- like us to -- to -- to -- just, say, to fire
21 employees like that, but, for us, this was never -- you
22 know, to -- the fact that she was in a hard situation,
23 we -- I try to provide them an opportunity to -- to -- to
24 get out of her situation and become better. So that's
25 what we chose to do.

1 And so, anyway, Jennie has since become a better
2 employee, cashier. She checks. She -- she -- she's found
3 a place to live. And so I am happy with the decision that
4 we -- we chose to keep her and -- and -- and learn from
5 her mistake.

6 We have since -- recently, we upgraded our point
7 of sale system. And now we -- actually, you can have the
8 ability to scan the license to check for IDs. It will
9 also give us an opportunity to -- to go over with all the
10 cashiers about what they understood our training
11 procedures to be, what -- I guess we asked them what they
12 thought was the proper way.

13 And so that was a good feedback as to what --
14 make sure that they understood that these are all the
15 tools that they have in front of them. Besides scanning,
16 they can verbally ask, they can -- there's so much
17 different ways to check for ID. So we went over all those
18 procedures, all those options with -- with the cashiers
19 to -- to retrain everybody so this doesn't happen again.

20 And -- and especially with the new system, some
21 of the cashiers weren't quite familiar with the -- the --
22 with what they can do. So it was actually a good
23 opportunity for us to -- to -- to make sure everybody
24 understood that these are all the -- the great ways that
25 we can use to -- to just easily check for IDs and -- and

1 service our customers while, at the same time, comply with
2 the -- the regulations in front of us. And so that's what
3 we've done.

4 Again, I apologize for even being here. This
5 should never happen to us, but it has. So we've taken it
6 as a negative situation, to -- to learn from it and to
7 grow from it and -- and so that it does not happen again.
8 Thank you.

9 CHAIR FUJII: Thank you, Mr. Makimoto. Any
10 questions by Members of the Board? Let me start. Mr.
11 Makimoto, you said this cashier had two years of
12 employment?

13 MR. MAKIMOTO: She worked for us and then she
14 left us to -- for -- for a few months. She came back.
15 So, technically, she just made one year of --

16 CHAIR FUJII: Actual --

17 MR. MAKIMOTO: -- actual being here for --
18 for --

19 CHAIR FUJII: How much training was involved?
20 You know, like minors' licenses are vertical versus our
21 regular horizontal license. And was she trained, you
22 know, to recognize things like that?

23 MR. MAKIMOTO: She was trained. You know, all
24 I -- I mean, even from my point of view, it's like how can
25 you miss it because it's so easy to -- to verify now, the

1 vertical and horizontal and -- but I guess because she's
2 human, her state of mind at that time was just not -- not
3 in the best -- not -- not best. And like I say, it had --
4 it had already affected her work performance. So -- but
5 the vertical -- I mean, now they're making it so much
6 easier for the cashiers to just -- because you can see
7 whether they're -- they're of age or not. So there is no
8 reason for -- for -- for us to make this kind of mistake.

9 CHAIR FUJII: Any questions?

10 MEMBER HELM: Yeah. At the time this incident
11 occurred, did you -- was there a supervisor working while
12 this occurred? And what did the supervisor do after
13 the -- the incident?

14 MR. MAKIMOTO: Yeah. I don't have a supervisor
15 at night. I normally stay 'til 7:00-8:00 to do my stuff
16 and then to be there for things that happen. So I can't
17 really afford to have a supervisor at that time. So every
18 cashier has to have their -- their own license. And so as
19 soon as she was cited and I was informed, so --

20 MEMBER HELM: So she was the only one working?

21 MR. MAKIMOTO: No. We always have two cashiers.
22 And I think at that time we still had the stock person in
23 the back.

24 MEMBER HELM: Thank you.

25 CHAIR FUJII: Any other questions by Members of

1 the Board? Okay. If not, Mr. Hanano, what will be the
2 Director's --

3 MR. HANANO: Yes. Thank you, Mr. Chair.

4 CHAIR FUJII: -- argument to penalty?

5 MR. HANANO: The original license for this
6 licensee was issued back in July of 2005. There is a
7 prior conviction for the same offense that occurred back
8 on December of 2006. However, that's outside of the
9 five-year period.

10 CHAIR FUJII: Uh-huh.

11 MR. HANANO: So in light of that, we are
12 recommending a \$2,000 fine with \$500 suspended on the
13 condition that there are no further convictions for the
14 same offense within a one-year period. Normally, we would
15 ask for 1,000 suspended, but, because there's a prior,
16 we're gonna recommend 500.

17 CHAIR FUJII: That's Count 1?

18 MR. HANANO: That's Count 1, yes. And then on
19 Count 2 -- Count 2, \$100 fine on Count 2.

20 CHAIR FUJII: Okay. Thank you, Mr. Hanano. The
21 Board will take all matters presented into consideration.
22 I will entertain a motion to go into deliberation.

23 MEMBER U`U: Motion to deliberate.

24 MEMBER ARIAGA: Second.

25 CHAIR FUJII: Moved and seconded. Any

1 discussion? If not, all in favor, say "aye."

2 (Response.)

3 CHAIR FUJII: Okay. The Board will go into
4 deliberation. We'll call you back.

5 MR. MAKIMOTO: Thank you.

6 (Deliberations, 9:52 a.m. to 10:03 a.m.)

7 CHAIR FUJII: The Board is back in open session.
8 Mr. Makimoto, the Board was deliberate -- deliberating on
9 these two violations here on our agenda, but, before I
10 offer you the penalties, the Board was very impressed
11 about you handling this situation for a person that was in
12 need and give 'em a second chance. And like you said --
13 also said that she's a better person today than she was at
14 that point. And, again, that kind of went into the
15 thinking of how we were gonna handle this, the penalty
16 phase. But, anyway, there was a violation, so there must
17 be a penalty. And the Board has, on Count 1, issued a
18 penalty of \$2,000 of which \$1,000 will be suspended
19 provided there is no reoccurrence of the same violation
20 within a period of one year. On Count 2, the Board has
21 discussed this. And over the discussion, there was this
22 penalty of \$100 that was recommended, which the Board is
23 gone with, but, also, the Board has said that if there's
24 no violation within a period of one year, the \$100 will be
25 suspended, will be -- will be erased. Again, the Board

1 will notify you when payment is due. And we -- again,
2 like I said, the Board did take consideration about you
3 helping this so-called homeless person, again, and give
4 'em second chance. And you said there is much -- probably
5 is one of your better employees for -- for, you know,
6 given the second chance. Thank you for coming.

7 MR. MAKIMOTO: Thank you.

8 CHAIR FUJII: We will now hear Complaint and
9 Accusation Number 2017-14 against Longs Drug Stores
10 California, L.L.C. doing business as Longs Drugs. And we
11 see the Respondent at the desk there. If you would state
12 your name and in what capacity you represent the
13 Respondent.

14 MR. CHU: Good morning, Members of the
15 Commission. Newton Chu on behalf of the licensee Longs
16 Drugs California doing business as Longs Drugs. To my
17 right is Lynn Craft who is the store manager at the
18 Lahaina Longs drugs.

19 CHAIR FUJII: Thank you. It's Mr. Chu and
20 Ms. Craft?

21 MR. CHU: And we'll waive the reading of the
22 charge.

23 CHAIR FUJII: Okay. As there are two -- again,
24 on this, we have two -- two counts. And you are waiving
25 the reading?

1 MR. CHU: Yes. And we've pled no contest to --

2 CHAIR FUJII: Okay.

3 MR. CHU: -- both counts.

4 CHAIR FUJII: Okay. So, again, Mr. Chu, just
5 for the record, do you represent the Respondent involved?

6 MR. CHU: Yes, I do.

7 CHAIR FUJII: Do you have legal counsel?

8 MR. CHU: I'm the legal counsel and --

9 CHAIR FUJII: Okay.

10 MR. CHU: -- Ms. Craft is the --

11 CHAIR FUJII: You're representing the licensee?

12 MR. CHU: Licensee.

13 CHAIR FUJII: Thank you. Do you understand the
14 charges against you?

15 MR. CHU: Yes.

16 CHAIR FUJII: Counts 1 and 2? Again, what is
17 your plea to Count 1 and Count 2?

18 MR. CHU: No contest.

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

21 MR. CHU: Yes.

22 CHAIR FUJII: Do you understand that you have a
23 right -- right to plead not guilty?

24 MR. CHU: Yes.

25 CHAIR FUJII: Do you understand, by pleading no

1 contest, you waive the right to a hearing in which you can
2 prevent evidence -- present evidence and question
3 witnesses on your behalf?

4 MR. CHU: Yes.

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

8 MR. CHU: Yes.

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

16 MR. CHU: Yes.

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

19 MR. CHU: Yes.

20 CHAIR FUJII: The Board hereby finds that the
21 licensee has entered a knowing and voluntary plea of no
22 contest to Counts 1 and Count 2. And the Board accepts
23 your plea and finds you guilty, like I said, in Accusation
24 Number 2017-13 -- 2017-14. So at this time, Mr. Hanano,
25 if you would present the summary of the case.

1 MR. HANANO: Yes. Thank you, Mr. Chair.

2 This case involved a minor decoy operation which
3 took place on Thursday, October 20th, 2016. The Minor
4 Decoy Team was comprised of Liquor Control Officers
5 Jarrett Kahooohanohano, Kayle Matsushima, Cielo Molina,
6 Robert Shiige, and Maui Police Department Officers
7 Lawrence Pagaduan, Marvin Tevaga and a female minor decoy.

8 The Minor Decoy Checklist was reviewed with the
9 minor decoy, informing her of the requirements of the
10 rules pertaining to minor decoy operations. The rules
11 required, among other things, that the minor decoy carry
12 her valid Hawaii State driver's license on her person at
13 all times, that she answer any questions about her age
14 truthfully, and that she present her valid Hawaii State
15 driver's license when asked by any employee of the
16 licensed premises to do so. The minor decoy reviewed and
17 signed the Minor Decoy Checklist, indicating she
18 understood what was read to her.

19 The minor decoy's Hawaii driver's license was
20 printed in a vertical format, which clearly indicated that
21 she became 21 years of age on 2-21-2019.

22 As part of the operation, the minor decoy was
23 provided with a 20-dollar bill to use as buy money.

24 On October 20th, 2016, at about 7:55 p.m.,
25 Officer Tevaga entered the Longs Drug Store located at

1 1221 Honoapiilani Highway, Lahaina, Maui, Hawaii. About a
2 minute later, the minor decoy followed Officer Tevaga into
3 the store. There were approximately 15 people in the
4 store at that time.

5 After entering the store, the minor decoy walked
6 towards the wine section and selected a bottle of red
7 Rosemont wine from the shelf. After that, the minor decoy
8 went to the checkout line and handed the bottle of wine to
9 the sales clerk, who was later identified as Joh-Ann
10 Irreverre.

11 Prior to completing the sale, Irreverre asked
12 the minor decoy for her date of birth, at which point --
13 at which time the minor decoy replied 2-21-1998.
14 Following that, Irreverre rang up the purchase the bottle
15 of wine, accepted the buy money from the minor decoy, then
16 handed the minor decoy the change, receipt, and the bottle
17 of wine. Minor decoy left the store with the bottle of
18 wine, upon which time Officer Tevaga informed Irreverre
19 that she had just sold liquor to a minor.

20 As part of the investigation, Joh-Ann Irreverre
21 was interviewed, at which time she provided the following
22 statement: Stated that she had been working for Longs
23 Drugs for about nine years; her scheduled shift that day
24 was from 11:00 a.m. to 8:00 p.m.; stated that they do
25 not -- they do have yearly computer training on the proper

1 checking of identification; also claimed that the minor
2 decoy said 1998 was the year of her birth; she also
3 acknowledged that she did not ask to see the minor decoy's
4 identification before completing the sale of the bottle of
5 wine.

6 Also, as part of the investigation, the manager
7 on duty at the time of the sale, Michelle Dela Cruz, was
8 interviewed, at which time she provided the following
9 statement, in pertinent part: Stated that all employees
10 are required to complete an annual training on proper
11 checking of identifications; the training is administered
12 on the computer which all employees must go through and
13 pass a test; one of the requirements of the training is
14 that all employees must ask for and make a check of
15 identification prior to selling liquor products to ensure
16 the buyer is of legal age.

17 Thank you. Nothing further.

18 CHAIR FUJII: Thank you, Mr. Hanano. Are there
19 any question by Members of the Board regarding the report
20 as submitted by the Prosecutor? Anyone? If no questions,
21 Mr. Chu and Ms. Craft.

22 MR. CHU: Yes. This is a very unfortunate
23 incident. The employee was a employee for nine years,
24 approximately nine years. Unfortunately at this
25 particular occasion, she failed to follow a Longs

1 well-established policy of checking for ID in those
2 situations. I'm sad to report that the employee, she is
3 no longer employed by Longs Drugs.

4 And to my right, Lynn Craft has been a manager
5 with Longs for 30-plus years. Perhaps you know her.
6 She's -- we're not here that often before you on these
7 types of matters, so we -- we believe our training does
8 work. And this incident sent a message to our client, and
9 Lynn has taken steps, Longs has taken steps to confirm --
10 reconfirm the policy of checking for IDs and enhanced
11 training.

12 We don't have a lot of -- I don't -- in the time
13 I've represented Longs, for eight years now, I haven't
14 been before you for a violation at this store. So I don't
15 think -- I don't have the complete record, but we know
16 that, at least in the past eight years, we haven't had a
17 violation at this -- this location.

18 CHAIR FUJIII: Is Ms. Craft going to make a
19 statement, too?

20 MS. CRAFT: We're really sorry. This -- I was
21 very disappointed in her. And we're really sorry this
22 happened. She worked for us for nine years. She was a
23 good employee, but, for some reason, lapse in judgment at
24 that time. I called that night, because Lichelle had
25 called me, what happened and everything, I spoke to her.

1 She did say she didn't check the ID, which we do not
2 train. We train extensively, talk to them constantly,
3 especially during the holidays, reminders, we're always
4 counseling them as far as IDs are concerned.

5 So I'm not sure why it happened, but we're
6 really sorry that this happened. It's terrible because
7 our policy is you are terminated as soon as it happens.
8 So we lost her that night. We don't wanna lose employees,
9 so that's why we keep counseling and telling them what
10 rules to follow.

11 And we are tested. And it's kind of a long
12 test, so -- it's done, actually, twice a year. They
13 should know better.

14 CHAIR FUJII: Okay. Any questions by Members of
15 the Board for Mr. Chu or Ms. Craft? Anyone? So what's
16 involved with the training as -- of a new employee as far
17 as liquor goes?

18 MS. CRAFT: One specific question said if
19 they're unable to provide an ID, there's A, B, C and D.
20 And the answer is refuse the sale.

21 CHAIR FUJII: Okay.

22 MS. CRAFT: And, you know, that's an outstanding
23 question that everybody remembers. So it's -- it's an
24 age -- you know, what age bracket. And so it -- it asks a
25 lot about age in regards to not only liquor, but

1 Dextromethorphan and that kind of stuff. So it -- it --
2 they know better. They know better.

3 CHAIR FUJII: And like you said, the policy is
4 termination?

5 MS. CRAFT: No chance. Just if violation,
6 you're terminate -- in fact, I didn't get to see her. She
7 was done at that moment it happened.

8 CHAIR FUJII: As far as retraining your
9 cashiers, is there --

10 MS. CRAFT: The next day, we started retraining
11 and counseling everybody. And I personally spoke to all
12 of the crew about what happened and what could happen to
13 each and every one of them if -- if they did that, you
14 know, if they overlook the policy.

15 CHAIR FUJII: Okay. Any questions by Members of
16 the Board toward the licensee? If not, Mr. Hanano, what
17 would be the Director's --

18 MR. HANANO: Thank you, Chair.

19 CHAIR FUJII: -- argument for penalty?

20 MR. HANANO: I just realized I myself worked
21 with Lynn Craft over 30 years ago.

22 MR. CHU: Too much information.

23 MR. HANANO: Anyway, Mr. Chu is right, there are
24 no convictions for this licensee. The original license
25 was issued back in November of 1986. In light of that, we

1 are recommending, in Count 1, a \$2,000 fine with \$1,000
2 suspended on the condition that there's no further
3 conviction for the same offense within one year. Count 2,
4 we would recommend a \$100 fine, 100. Thank you.

5 CHAIR FUJII: Thank you, Mr. Hanano. The Board
6 will take all matters into consideration that was
7 presented. And at this time, I would like to entertain a
8 motion to go into deliberation.

9 MEMBER DE MELLO: So moved.

10 MEMBER HELM: Second.

11 CHAIR FUJII: Moved and seconded by Zach Helm.
12 All in favor of the motion say "aye."

13 (Response.)

14 CHAIR FUJII: Okay. Motion carried.

15 (Deliberations, 10:16 a.m. to 10:23 a.m.)

16 CHAIR FUJII: The Board is back in open session.
17 Ms. Craft, Mr. Chu, the Board has decided on Count 1 --
18 first of all, the Board was impressed with your record.
19 Having your license in 1986, and there are no violations
20 in a period of over almost 30 years, we're very impressed.
21 We do not see -- we don't -- yeah, we don't see too many
22 of those clean ones over, you know, a 10-year period, is
23 about -- is good already. And, here, we're looking at a
24 30-year period, which is outstanding. But it is a
25 violation. It is a serious violation that was on Count 1.

1 So on Count 1, the Board will issue a penalty of \$2,000 of
2 which \$1,000 will be suspended provided there is no
3 reoccurrence of the same violation within a period of one
4 year. On Count 2, the Board will -- is issuing a penalty
5 of \$100, again, for not checking proper ID. The
6 Department will notify you when payment is due, but,
7 again, thank you for --

8 MR. CHU: Thank you for your consideration.

9 CHAIR FUJII: -- having such a clean record
10 there.

11 MR. CHU: Thank you very much.

12 MS. CRAFT: Thank you.

13 MR. CHU: Take care.

14 CHAIR FUJII: Okay, guys, we have one more to
15 go. And before we begin on Complaint and Accusation
16 Number 2017-16, Mr. Hanano, would you make a statement
17 regarding the count here?

18 MR. HANANO: Yes, Mr. Chair. There was a plea
19 agreement in that matter -- are you talking about
20 Walgreens?

21 CHAIR FUJII: Yes, the next -- the last --

22 MR. HANANO: Yes. Actually, pursuant to plea
23 agreement, Count 2 was -- will be dismissed with
24 prejudice.

25 CHAIR FUJII: Okay. Count 2 is dismissed.

1 Okay. So, again, we are looking at Complaint and
2 Accusation Number 2017-16. So let us get started on that
3 one. We'll now hear that Complaint and Accusation -- that
4 guy looks familiar there. Okay. Again, take a seat there
5 and we will get started.

6 MR. UEOKA: Good morning, Mr. Chair, Members of
7 the Board, Mr. Mukai. Mr. Robert Ueoka on behalf of the
8 Walgreens. To my right, Mr. Eric Donnelly, Store Manager.

9 CHAIR FUJII: Thank you. At this time,
10 Mr. Ueoka, you have the option of having the charges --
11 charge now, it's only one count, publicly read or you can
12 waive the reading.

13 MR. UEOKA: Waive reading, Mr. Chair.

14 CHAIR FUJII: Again, Mr. Ueoka, for the record,
15 do you represent the Respondent involved?

16 MR. UEOKA: Yes, I do.

17 CHAIR FUJII: Are you their legal counsel?

18 MR. UEOKA: Yes.

19 CHAIR FUJII: Do you understand the charge
20 against you?

21 MR. UEOKA: Yes, we understand the charge.

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

23 MR. UEOKA: No contest.

24 CHAIR FUJII: Do you understand the violations
25 the -- the violation the Department of Liquor Control

1 alleges against you?

2 MR. UEOKA: Yes.

3 CHAIR FUJII: Do you understand that you have
4 the right to plead not guilty?

5 MR. UEOKA: Yes.

6 CHAIR FUJII: Do you understand, by pleading no
7 contest, you waive the right to a hearing in which you
8 could present evidence and question witnesses on your
9 behalf?

10 MR. UEOKA: Yes.

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

14 MR. UEOKA: Yes.

15 CHAIR FUJII: Do you understand that, on Count
16 1, if the Board accepts your plea of no contest, you will
17 be found guilty, and that the Board may issue a reprimand,
18 or assess and collect a penalty of up to \$2,000, or revoke
19 any license at any time, or suspend the right of the
20 licensee to use the licensee's license?

21 MR. UEOKA: Yes.

22 CHAIR FUJII: Do you still wish to plead no
23 contest on Count 1?

24 MR. UEOKA: Yes.

25 CHAIR FUJII: The Board hereby finds that the

1 licensee has entered a knowing and voluntary plea of no
2 contest on Count 1. The Board accepts your plea and finds
3 you guilty on Count 1 reflected in Complaint and
4 Accusation Number 2017-16. At this time, Mr. Hanano, if
5 you would present a summary of the case.

6 MR. HANANO: Yes. Thank you, Chair.

7 This case involved a minor decoy operation which
8 took place on Tuesday [sic], October 3rd, 2016. The Minor
9 Decoy Team was comprised of Liquor Control Officers Marc
10 Weisenfeld, Kayle Matsushima, Cielo Molina, Cullen Kawano,
11 and MPD Officer Nicole Comilang and Lieutenant Jeraul
12 Pladera as well as a male minor decoy.

13 The minor decoy checklist was reviewed with the
14 minor decoy informing him of the rules and requirements
15 pertaining to minor decoy operations. The rules required,
16 among other things, that the minor decoy carry his valid
17 Hawaii State driver's license on his person at all times,
18 that he answer any questions about his age truthfully, and
19 that he present his valid Hawaii State driver's license
20 when asked by any employee of the licensed premises to do
21 so. The minor decoy reviewed and signed the Minor Decoy
22 Checklist, indicating he understood what was read to him.

23 The minor decoy's Hawaii driver's license was
24 printed in a vertical format which clearly indicated that
25 the minor decoy became 21 years of age on 10-2-2018 [sic].

1 As part of the operation, the minor decoy was
2 provided with a 20-dollar bill to use as buy money.

3 On October 3rd, 2016, at about 7:55 p.m.,
4 Officer Comilang entered the Walgreens store located at 10
5 East Kamehameha Avenue, Kahului, Maui, Hawaii. About a
6 minute later, the minor decoy followed Officer Comilang
7 into the premises.

8 After entering the store, the minor decoy walked
9 towards the refrigerator area, picked out a six-pack of
10 Bud Light beer and walked to the cash register --
11 registers towards the front of the store.

12 Prior to making the sale, the cashier,
13 identified as Bryson Rodrigues asked for and examined the
14 minor decoy's Hawaii driver's license. Following that,
15 however, Rodrigues completed the sale, never asked the
16 minor decoy for his age.

17 After handing Rodrigues the 20-dollar buy money
18 and receiving the change, the minor decoy exited the Food
19 Mart -- exited the premises without the six-pack of Bud
20 Light beer because Officer Comilang intervened and
21 informed Rodrigues that he had just sold liquor to a
22 minor.

23 There were approximately six customers in the
24 store and four employees in the store when the sale took
25 place.

1 As part of the investigation, Mr. Rodrigues was
2 interviewed, at which time he provided the following
3 statement: Stated that he had been working for Walgreens
4 for about -- for just a short period of time; that his job
5 training consisted of web-based instructional videos and
6 shadowing; with respect to the sale of liquor to the minor
7 decoy, Rodrigues said that, when he looked at the minor
8 decoy's ID, he thought the year of birth stated 1984; also
9 stated that the point of sale system on the cash register
10 asked if the buyer appears under 40 years old to which he
11 answered yes, however, when the POS system prompted him to
12 examine the buyer's identification, he did, but stated he
13 misread the year of birth; Rodrigues admitted that he
14 never asked the minor decoy for his age.

15 Also, as part of the investigation, the manager
16 on duty at the time of the sale, Kristal Ann Perreira, was
17 interviewed, at which time she provided following
18 statement, in pertinent part: Stated that it is Walgreens
19 company policy to examine the identification of anyone
20 purchasing alcohol who appears under the age of 40; stated
21 that Rodrigues received training which instructed him to
22 check ID indication to make sure the buyer is of legal
23 age.

24 Thank you. Nothing further.

25 CHAIR FUJIII: Thank you, Mr. Hanano. Any

1 questions on Mr. Hanano's report regarding this case?

2 Okay. If not, Mr. Ueoka, do you want to make a statement
3 or --

4 MR. UEOKA: Yes. Yes. We apologize for the
5 incident. Like I know many licensees said before us that
6 we take -- we take this -- these kind of violations very
7 seriously. We're embarrassed to be here. But we realize
8 the seriousness of it, so we want to just give our side to
9 the Board.

10 First of all, in this incident, it was done by
11 accident. The employee just misread the ID. It's -- this
12 employee was about a six-month employee, but he just -- he
13 made a mistake. We made him do mandatory recertification
14 and training. And we also did employee meetings, and
15 including face-to-face meetings, how to check ID after
16 this incident.

17 We'll be happy to answer any questions that the
18 Board may have.

19 CHAIR FUJII: Would -- you wanna make a
20 statement, sir?

21 MR. UEOKA: He was -- Mr. Donnelly is here to
22 kind of answer any questions, but --

23 CHAIR FUJII: Oh, okay.

24 MR. UEOKA: He'll answer any questions you may
25 have, of course.

1 CHAIR FUJII: Okay. Any questions for
2 Mr. Donnelly or Mr. Ueoka by the Board? Again, if you
3 state your policy upon -- and you said like this what
4 happens with the employee?

5 MR. UEOKA: I'll let Mr. Donnelly add anything
6 that I -- I missed, but what happens with this, we
7 immediately meet with the employee and counsel them on --
8 on their mistake, so they understand what they did wrong.
9 And then we, also, meet with them personally and to
10 emphasize the seriousness of their mistake and make sure
11 it doesn't happen again. Mr. Donnelly has anything to add
12 to that as far as what we do to employees after it
13 happens.

14 MR. DONNELLY: We do give 'em a second chance as
15 long as it wasn't an intentional act. So he did receive a
16 final written. He was in tears and quite upset over the
17 process and -- but -- but, yeah, he's definitely taken it
18 seriously, as do we all.

19 CHAIR FUJII: So he's currently an employee
20 and --

21 MR. DONNELLY: Yes, he is.

22 CHAIR FUJII: Cashiering?

23 MR. DONNELLY: Yes. Yes, sir.

24 CHAIR FUJII: Any other questions by Members of
25 the Board regarding this -- I think we, more or less, had

1 several questions directed to previous licensees. And I
2 think -- I think we are -- pretty much know how -- if
3 Longs and Walgreens, they -- they're national chains, and
4 they gotta -- you guys gotta have these things in place.
5 Did you have a question?

6 MEMBER HELM: Yes. Is this your first
7 situation?

8 MR. UEOKA: This is our first time.

9 CHAIR FUJII: For Walgreens. Thank you. If
10 not -- okay. Oh.

11 MEMBER UEOKA: With what frequency are your
12 employees retrained?

13 MR. DONNELLY: It's an annual system for the
14 official one, and then we bring it up much more frequently
15 than that.

16 MEMBER UEOKA: Thank you.

17 CHAIR FUJII: Any other questions directed to
18 the licensee? If not, Mr. Hanano, what would be the
19 argument to penalty?

20 MR. HANANO: Thank you, Mr. Chair. The original
21 license for this licensee was issued back in April of
22 2010. There are no prior convictions. In light of that,
23 we are recommending, in Count 1, a \$2,000 fine which --
24 with \$1,000 suspended on the condition that there's no
25 further convictions for the same offense within a one-year

1 period. And Count 2, we recommend a \$100 fine.

2 MEMBER UEOKA: But it was dismissed.

3 MEMBER DE MELLO: Count 2 is dismissed.

4 MR. HANANO: Sorry. Sorry.

5 MEMBER U`U: You just checking us, eh?

6 MS. MATSUSHIMA: That was fast, huh?

7 CHAIR FUJII: Just checking.

8 MR. UEOKA: I knew you guys would catch it.

9 CHAIR FUJII: Again, thank you, Mr. Hanano and
10 Mr. Ueoka. We will -- the Board will take all the matters
11 that was reported here today into consideration. I will
12 entertain a motion to go into --

13 MEMBER U`U: Motion to deliberate.

14 CHAIR FUJII: -- deliberation.

15 MEMBER HELM: Second.

16 CHAIR FUJII: Moved by Bruce, seconded by Zach.

17 All in favor, say "aye."

18 (Response.)

19 CHAIR FUJII: Motion carried.

20 (Deliberations, 10:35 a.m. to 10:38 a.m.)

21 CHAIR FUJII: Mr. Ueoka and your client,
22 Walgreens there, we checked the records, of course you've
23 been here only the last two or three years, probably, the
24 licensee, anyway, for Kahului, and there's no previous
25 violations. So the Board will support the recommendation

1 by the Prosecutor. The penalty phase is that the -- the
2 penalty is that it will be fine of \$2,000 of which \$1,000
3 will be suspended provided there is no similar violation
4 within a period of one year. Okay. Again, thank you for
5 coming. And we give you equal time to Longs as well as
6 Walgreens today. So we feel good about it.

7 MR. UEOKA: Okay. Thank you very much. Thank
8 you.

9 CHAIR FUJII: All right. Now we got some other
10 business to take care of today, guys. We bid aloha to --
11 let's see. Before we get to that, where is my --

12 DIRECTOR MUKAI: Administrative Affairs --

13 CHAIR FUJII: Oh.

14 DIRECTOR MUKAI: -- we have a resolution.

15 CHAIR FUJII: Okay. Before that, Mr. Director,
16 Mr. Mukai, I wanna make a statement before we get to that
17 regarding -- you know, I'd like to make a statement.

18 Before we go to Administrative Affairs, I would like the
19 Board as a whole, including myself, like to commend the
20 Department, Mr. Mukai, and -- and the Prosecutor's Office
21 for keeping these cases pretty current. These -- I've
22 been sitting here for some time. And sometimes you look
23 at cases three or four years old. And now we're looking
24 at -- if you look at today's agenda, we're looking at six
25 months, nine months at the most. And I -- I think it's

1 commendable that this is happening. We're -- because the
2 longer you -- you keep these cases pending, you lose track
3 of witnesses and all of the things. So, again,
4 Mr. Hanano, a lot of credit goes to you guys to put these
5 cases together with the Department and the Board highly --
6 it's commendable that is happening in the right direction.

7 Now we can move on to Administrative Affairs.
8 Mr. Mukai.

9 DIRECTOR MUKAI: Yes. We have a A and B
10 Resolution honoring Doris Tanaka and Bernard Despins.
11 Mr. Despins is not here today, but the Resolution is
12 similar. And our Secretary to Boards and Commission will
13 read the resolution and followed by our Deputy Director
14 would read the letter of appreciation from Mayor Arakawa
15 into the records. Sarah.

16 MS. CORDEIRO: The Liquor Control Adjudication
17 Board proposes to adopt this Resolution in honor of
18 Mrs. Doris Tanaka for exemplary services as a Member of
19 the Liquor Control Adjudication Board; and

20 Whereas, Mrs. Tanaka has served as a member of
21 the Liquor Control Adjudication Board of the County of
22 Maui for a period from April 2012 to March 2017; and

23 Whereas, the Members of the Liquor Control
24 Adjudication Board as well as the staff of the Department
25 of Liquor Control have enjoyed the valuable services

1 rendered by Mrs. Tanaka in said capacities; and

2 Whereas, the County of Maui and its citizenry
3 have greatly benefited from the unselfish and responsible
4 services rendered by Mrs. Tanaka during said period; and

5 Whereas, her expertise, thoughtful and
6 cooperative manner and conduct have been the source of
7 much inspiration and help to the fellow members of the
8 Liquor Control Adjudication Board; now

9 Therefore, be it resolved that the Members of
10 the Liquor Control Adjudication Board do hereby express
11 their sincere appreciation to Mrs. Tanaka for the
12 competent leadership and service as a member of the Liquor
13 Control Adjudication Board of the County of Maui and do
14 hereby wish her much success in her future undertakings;
15 and

16 Be it further resolved that this Resolution be
17 entered upon the minutes of this Board and be forwarded to
18 Mrs. Tanaka, adopted this 2nd day of March, 2017.

19 CHAIR FUJII: Thank you, Sarah.

20 DEPUTY DIRECTOR HONDA: I have a letter from the
21 Office of the Mayor dated February 27, 2017 to Doris
22 Tanaka. Dear Ms. Tanaka, congratulations on a job well
23 done. On behalf of the people of the County of Maui,
24 please accept my deepest appreciation and gratitude for
25 your dedication and service on the Liquor Adjudication

1 Board. Your efforts and contributions have made a
2 positive difference in our community. I truly believe
3 that it is important for citizens to play an active role
4 in government. The process of recruiting and selecting
5 nominees to the various Maui County boards and commissions
6 has given me a greater appreciation for volunteerism and
7 community service. I would like to commend you for your
8 willingness to -- to devote your time, energy, resources
9 and insight to the betterment of Maui County. Once again,
10 thank you very much for doing your part to make our county
11 the best it can be. I hope that your experience has been
12 rewarding and meaningful. Sincerely, Alan M. Arakawa,
13 Mayor, County of Maui.

14 DIRECTOR MUKAI: So we have this Certificate of
15 Appreciation from the Mayor and the Department we'll
16 present to Ms. Tanaka.

17 MEMBER TANAKA: Thank you. Thank you, Fellow
18 Members. I enjoyed serving the past five years. I will
19 deary miss you all. Thank you.

20 CHAIR FUJII: We'll miss you, too, Doris.

21 MEMBER DE MELLO: We're gonna miss you, too,
22 Doris.

23 MEMBER UEOKA: Where's the bling?

24 MEMBER TANAKA: Thank you. Thank you.

25 CHAIR FUJII: Mr. Mukai, are we still going

1 ahead with the Resolution for Ben Despins, too?

2 DIRECTOR MUKAI: It's similar, so we can just --

3 MEMBER DE MELLO: Can you give it --

4 CHAIR FUJII: Just for the record, we'll read it
5 into the record. Sarah.

6 MS. CORDEIRO: The Liquor Control Adjudication
7 Board proposes to adopt this Resolution in honor of
8 Mr. Bernard Despins for his exemplary services as a member
9 of the Liquor Control Adjudication Board; and

10 Whereas, Mr. Despins has served as a member of
11 the Liquor Control Adjudication Board of the County of
12 Maui for a period from May 2012 to March 2017; and

13 Whereas, the Members of the Liquor Control
14 Adjudication Board as well as the staff of the Department
15 of Liquor Control have enjoyed the valuable services
16 rendered by Mr. Despins in said capacity; and

17 Whereas, the County of Maui and its citizenry
18 have greatly benefited from the unselfish and responsible
19 services rendered by Mr. Despins during said period; and

20 Whereas, his expertise, thoughtful and
21 cooperative manner and conduct have been the source of
22 much inspiration and help to the fellow Members of the
23 Liquor Control Adjudication Board; now

24 Therefore, be it resolved that the Members of
25 the Liquor Control Adjudication Board do hereby express

1 their sincere appreciation to Mr. Despins for the
2 competent leadership and service as a member of the Liquor
3 Control Adjudication Board of the County of Maui and do
4 hereby wish him much success in his future undertakings;
5 and

6 Be it further resolved that this Resolution be
7 entered upon the minutes of this Board and be forwarded to
8 Mr. Despins. Adopted this 2nd day of March, 2017.

9 CHAIR FUJII: Thank you, Sarah.

10 DEPUTY DIRECTOR HONDA: This letter is from the
11 Office of the Mayor dated February 27, 2017, addressed to
12 Mr. Bernard Despins. Dear Mr. Despins, congratulations on
13 a job well done. On behalf of the people of the County of
14 Maui, please accept my deepest appreciation and gratitude
15 for your dedication and service on the Liquor Adjudication
16 Board. Your efforts and contributions have made a
17 positive difference in our community. I truly believe
18 that it is important for citizens to play an active role
19 in government. The process of recruiting and selecting
20 nominees to the various Maui County boards and commissions
21 has given me a greater appreciation for volunteerism and
22 community service. I would like to commend you for your
23 willingness to devote your time, energy, resources and
24 insight to the betterment of Maui County. Once again,
25 thank you very much for doing your part to make our county

1 the best it can be. I hope that your experience has been
2 rewarding and meaningful. Sincerely, Alan M. Arakawa,
3 Mayor, County of Maui.

4 CHAIR FUJII: Thank you. Mark, thank you. Are
5 we ready for the next item on the Administrative Affairs
6 which will be election of Liquor Control Adjudication
7 Board Chairperson and Vice-Chairperson for the period
8 April of 2017 through March 2018? Nominations are now
9 open for -- for the Chairperson.

10 MEMBER HELM: I would like -- I would like to
11 make a motion.

12 CHAIR FUJII: Nominations are open. Go ahead.

13 MEMBER HELM: Yeah. I would like to -- first of
14 all, I would like to thank Donald and Wayne for doing an
15 excellent job. And I would like to make a motion that we
16 reelect both of 'em for another year, I guess, for the
17 Chair and the Co-Chair.

18 MEMBER U`U: Second.

19 CHAIR FUJII: Okay. Any other nominations from
20 the floor? If not, we'll vote on Zach's nomination. Are
21 there any other nominations on the floor? If not, all in
22 favor of Zach's nomination say "aye."

23 (Response.)

24 CHAIR FUJII: Any opposed?

25 (No response.)

1 CHAIR FUJII: Okay. Motion carried. We -- I
2 personally appreciate your confidence, all of you. It
3 will be my final year here, as well as Wayne, I believe.
4 And I think it's been great working with the Department,
5 working with all of you guys, you know. Every year, we
6 have new bodies coming and going, but we still stick
7 together. And -- and it is -- and, you know, we treat the
8 public, you know, like we should treat like any other
9 person. And that's -- it's hard to come up there, you
10 know, for me, say I'm wrong or whatever or, you know, I
11 didn't know, that type of thing. So we -- I remember
12 being on the Board, before this time around, anyway, and
13 we had members on -- on the Board that would criticize
14 these poor licensees that would come here. And, you know,
15 it's sad. But you guys are really great people. That's
16 why it's good working with you folks, that, you know, you
17 can feel how you would feel if you were on the other side
18 of the desk and you treat everybody real, you know, like,
19 you know, we treat our family or friends, you know.
20 Because, again, everybody make mistakes when they come
21 here. And it's hard just to come here and say I'm wrong
22 or whatever. But any -- that's why I don't mind being the
23 Chair here, working with you guys that know how to handle
24 these people that, you know, difficult. Some -- I know
25 one time we had a person, English was like their second or

1 third language, we -- and big difficulty, but we gotta be
2 patient with them, you know, because, again, nobody --
3 they never went through training, some of them. So,
4 again -- but to show up here and then we supposed to help
5 them as well as, you know -- you know -- you know penalize
6 them, but, also, we help them, not only penalize them,
7 too. So, again, thank you, guys, for supporting Wayne and
8 I.

9 Wayne, you wanna say anything?

10 VICE-CHAIR PAGAN: Yeah. I just wanna thank all
11 of you for your vote of confidence. And we'll do it
12 again.

13 CHAIR FUJII: (Inaudible) we, all of you. And I
14 know we're gonna have two new members coming in at our
15 next meeting, which we hope that we can always have a
16 quorum, because there are times, you know, when some of us
17 cannot make it here and they need to have people that are
18 willing to put in the time here because we don't want the
19 licensees to be waiting to find out what's gonna happen to
20 them, either, too, so that they can get it, they can move
21 on and -- and it's our duty to show up for the meetings as
22 much as possible. Okay.

23 Other than that, again, all I can say is it's
24 great working with you guys. Thank you.

25 MEMBER HELM: Thank you.

1 MEMBER DE MELLO: Thank you.

2 CHAIR FUJII: Any other business, Mr. Mukai?

3 Someone make a motion to adjourn.

4 MEMBER TANAKA: Motion.

5 MEMBER ARIAGA: So move.

6 MEMBER HELM: Second.

7 (Proceedings concluded, 10:52 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 ___ day of April, 2017.

/s/ Tonya McDade

Tonya McDade
Certified Shorthand Reporter #447
Registered Professional Reporter
Certified Realtime Reporter
Certified Broadcast Reporter