

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 9:03 a.m., on Thursday, April 6, 2017.

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1 BOARD MEMBERS PRESENT:

2 Donald Fujii, Chairperson

3 Wayne Pagan, Vice-Chairperson

4 Lahela Aiwohi, Member

5 Candace Ariaga, Member

6 Jerrybeth De Mello, Member

7 Zachary Helm, Member

8 Gwen Ueoka, Member

9 Bruce U`u, Member (Out, 11:24 a.m.)

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 Bill Pacheco, Chief Enforcement Officer

16 Sarah Cordeiro, Secretary to Boards/Commissions II

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1 (Thursday, April 6, 2017, 9:03 a.m.)

2 ***

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 issued as
8 posted on today's agenda. At this time we'd like the
9 Board members and staff to introduce themselves, starting
10 with Sarah.

11 MS. CORDEIRO: Sarah Cordeiro, Liquor Control.

12 MEMBER DE MELLO: Jerrybeth De Mello from
13 Lahaina.

14 MEMBER ARIAGA: Candace Ariaga, Lanai.

15 MEMBER HELM: Zach Helm, Molokai.

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

17 CHAIR FUJII: Donald Fujii, Wailuku.

18 VICE-CHAIR PAGAN: Wayne Pagan, Upcountry.

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

20 MEMBER UEOKA: Gwen Ueoka, Wailuku.

21 MEMBER AIWOHI: Lahela Aiwohi, Kula.

22 DIRECTOR MUKAI: Glenn Mukai, Liquor Control.

23 DEPUTY DIRECTOR HONDA: Mark Honda Liquor
24 Control.

25 MR. HANANO: Peter Hanano, Department of

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1 Prosecuting Attorney.

2 MR. PACHECO: Bill Pacheco, Department of Liquor
3 Control.

4 CHAIR FUJII: Thank you. Special welcome to
5 Lahela for her first meeting. I didn't realize that, as a
6 first meeting, you get a white name tag in front of you so
7 everybody know that you're new.

8 MEMBER AIWOHI: It's like waving the white flag.

9 CHAIR FUJII: Okay. So, again, welcome and I
10 hope you enjoy your term here with the Board. We will now
11 hear Complaint and Accusation Number 2017-12 against
12 Walgreens of Maui, Inc. doing business as Walgreens. Will
13 Respondent or its representative please step forward and
14 state your name and in what capacity you represent the
15 licensee?

16 MR. UEOKA: Morning, Mr. Chair, Members the
17 Board, Robert Ueoka on behalf of Walgreens Wailuku store.
18 Present to my right, Mr. Perry Chapman, Store Manager.

19 CHAIR FUJII: Thank you. At this time,
20 Mr. Ueoka, you have the option of having the charges
21 publicly read or you can waive the reading. What is your
22 preference?

23 MR. UEOKA: At this time we would waive reading
24 of the charge and enter a plea of no contest.

25 CHAIR FUJII: Thank you. For the record, do

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1 you, Mr. Ueoka, represent the licensee involved?

2 MR. UEOKA: Yes.

3 MR. HANANO: Chair, if I may, just for the
4 record, pursuant to plea agreement, Count 2 has been
5 dismissed -- or will be dismissed.

6 CHAIR FUJII: Count 2 will be dismissed. Thank
7 you, Mr. Hanano. Again, Mr. Ueoka, are you the legal
8 counsel?

9 MR. UEOKA: Yes.

10 CHAIR FUJII: Does your client understand the
11 charge against him?

12 MR. UEOKA: Yes, we do.

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

14 MR. UEOKA: No contest.

15 CHAIR FUJII: Do you understand the violation
16 the Department of Liquor Control alleges against you?

17 MR. UEOKA: Yes.

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

20 MR. UEOKA: Yes.

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

25 MR. UEOKA: Yes.

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

4 MR. UEOKA: Yes.

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

11 MR. UEOKA: Yes.

12 CHAIR FUJII: Do you still wish to plead no
13 contest?

14 MR. UEOKA: Yes.

15 CHAIR FUJII: The Board hereby finds that the
16 licensee has entered a knowing and voluntary plea of no
17 contest. The Board accepts your plea and finds you guilty
18 on Count 1 reflected on Accusation Number 2017-12.

19 Mr. Hanano, will the Department please present a
20 summary of the case?

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

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

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1 Marc Weisenfeld, and MPD Officers Lawrence Pagaduan and
2 Marvin Tevaga, along with a male minor decoy.

3 The Minor Decoy Checklist was reviewed with the
4 minor decoy informing him of the requirements and rules
5 pertaining to the minor decoy operations. The rules
6 required, among other things, that the minor decoy carry
7 his valid Hawaii State driver's license on his person at
8 all times and he answer any questions about his age
9 truthfully and that he present his valid Hawaii State
10 driver's license when asked by any employee of the
11 licensed premises to do so. The minor decoy reviewed and
12 signed the Minor Decoy Checklist indicating he understood
13 what was read to him. The minor decoy's Hawaii driver's
14 license was printed in a vertical format, which clearly
15 indicated that the minor decoy became 21 years of age on
16 10-2-2017. As part of the operation, the minor decoy was
17 provided with a 20-dollar bill to use as buy money.

18 On September 22nd, 2016, at about 9:09 p.m.,
19 Officer Tevaga entered the Walgreens store located at 700
20 Waiale Road, Wailuku, Maui, Hawaii. About a minute later,
21 the minor decoy followed Officer Tevaga into the premises.
22 After entering the store, the minor decoy walked to the
23 refrigerator area, picked out a six-pack of Heineken beer,
24 then walked to the cash registers toward the front of the
25 store. Prior to making the sale, the cashier, later

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1 identified as Joelyn -- Joylyn Jim, completed the sale and
2 never asked the minor decoy for his age or to see his
3 identification. After handing Jim the 20-dollar buy money
4 and receiving the change, the minor decoy immediately
5 exited the premises with a six-pack of Heineken beer and
6 returned to the operations vehicle. Following that,
7 Officer Tevaga approached Jim and informed her that she
8 had just sold liquor to a minor. There were approximately
9 five other customers in the store when the sale took
10 place.

11 As part of the investigation, Joylyn Jim was
12 interviewed, at which time she provided the following
13 statement: Stated that she had been working for Walgreens
14 for about a week and-a-half; that she received one day of
15 training which included web-based instructional videos and
16 shadowing as well as a review of some of the rules
17 pertaining to selling alcoholic beverages; she was also
18 instructed to always ask for identification when selling
19 liquor and to follow prompts on the point of sale system;
20 with respect to the sale of liquor to the minor decoy, Jim
21 acknowledged that the POS system asked her questions such
22 as "does the buyer appear to be less than 40 years old,"
23 then asks for a buyer's date of birth, however, Jim
24 admitted that she ignored and bypassed the questions;
25 additionally Jim acknowledged she never asked the minor

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1 decoy for his age or to see his identification.

2 Also, as part of the investigation, the manager
3 on duty at the time of the sale, William Jamieson James,
4 III was interviewed, at which time he provided the
5 following statement, in pertinent part: Stated that it is
6 Walgreens company policy to examine the identification of
7 anyone purchasing alcohol who appears under the age of 40;
8 and, also, that Jim received training and was instructed
9 to check identifications to make sure the buyer is of
10 legal age.

11 Nothing further, Chair. Thank you.

12 CHAIR FUJII: Thank you, Mr. Hanano. Any
13 questions by Members of the Board regarding the report as
14 submitted by the Prosecutor? If not, Mr. Ueoka or
15 Mr. Chapman, you now have the opportunity to make a
16 statement regarding this case. You may also inform the
17 Board of any mitigating circumstances which may or may not
18 apply to sentencing. Mr. Ueoka.

19 MR. UEOKA: In this case, the employee made a
20 serious error. The employee was adequately trained, but
21 did not follow Walgreens training and policy. This
22 employee is no longer employed by Walgreens. After the
23 incident, we did, of course, team meeting, reminder
24 meetings. We, also, do monthly reminder meetings, and we
25 also do annual retraining for our employees. Again, we

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1 apologize for this incident and we accept responsibility
2 for it.

3 CHAIR FUJII: Does Mr. Chapman want to make a
4 statement?

5 MR. CHAPMAN: No, Your Honor.

6 CHAIR FUJII: Thank you. Any questions by
7 Members of the Board pertaining to the reports and the
8 statement by Mr. Ueoka? I do have a concern. Again, will
9 you kind of repeat what the training process is for a new
10 employee?

11 MR. UEOKA: They undergo online training. It's
12 standardized online training for employees. And they also
13 do shadowing of other employees to watch how other
14 employees serve liquor and how they follow policy. They
15 have a policy anyone under -- anyone under 40 years old is
16 to be carded. So, clearly, this employee violated the
17 policy. Like I said, the employee is no longer employed
18 with Walgreens. But we -- we always make a strong effort
19 to retrain and to remind them. And that's why we do
20 annual training, which -- which is really an effort to
21 prevent this kind of incident.

22 CHAIR FUJII: Thank you. One more question I
23 have. According to the report submitted by the
24 prosecution, the employees had -- just had one day, was
25 hired a day before?

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1 MR. UEOKA: The report says a week and-a-half,
2 but it's -- it was about two weeks, two and-a-half weeks,
3 but a relatively new employee. But just to stress that
4 she was trained, adequately trained, she just made an
5 error on -- on -- on the sale.

6 CHAIR FUJII: Walgreens policy not to have some
7 supervisor kind of oversee for the beginning period of --

8 MR. UEOKA: I think we are going to reevaluate
9 our policy on that and maybe do a longer kind of probation
10 or monitoring period, definitely given this incident.

11 CHAIR FUJII: Okay. Any other questions by
12 anyone on the Board? If not, Mr. Hanano, what would be
13 the Director's argument as to penalty?

14 MR. HANANO: Thank you, Chair. This license was
15 issued in March of 2014. There's no prior convictions of
16 any kind. In light of that, we are recommending, for
17 Count 1, a \$2,000 fine with \$1,000 suspended on the
18 condition that there's no further convictions for the same
19 offense within a year.

20 CHAIR FUJII: Thank you. The Board will take
21 this matter into consideration. At this time I would like
22 to entertain a motion to go into deliberation.

23 MEMBER ARIAGA: Motion.

24 MEMBER HELM: Second.

25 MEMBER DE MELLO: Second.

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1 CHAIR FUJII: There's a motion and a second that
2 we go into deliberation. All in -- any discussion? All
3 in favor of the motion, say "aye."

4 (Response.)

5 CHAIR FUJII: Any opposed?

6 (No response.)

7 CHAIR FUJII: Motion carried. So we will go
8 into deliberation and call you back, all of you.

9 MR. UEOKA: Thank you.

10 (Deliberations, 9:14 a.m. a.m. to 9:27 a.m.)

11 CHAIR FUJII: The Board is back in open session.
12 Mr. Ueoka, Mr. Chapman, the -- after deliberation, the
13 Board has come up with the penalty of \$2,000 of which
14 \$1,000 will be suspended provided there is no conviction
15 of the same offense within a period of one year. So you
16 can -- we've discussed this enough to know that the
17 penalty is -- is required here. And the Department will
18 notify you when payment is due. Thank you for being here.

19 MR. UEOKA: Thank you.

20 MR. CHAPMAN: Thank you.

21 CHAIR FUJII: We will now hear Complaint and
22 Accusation Number 2017-15 against Foodland Super Market,
23 Limited doing business as Foodland Farms. And I see the
24 Respondent and the licensee present. Please have a seat
25 there.

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1 MR. HANANO: Chair, just for the record, like in
2 the last case, Count 2 is dismissed pursuant to plea
3 agreement.

4 CHAIR FUJII: So, Mr. Ueoka, will you please
5 state who your licensee with you? Introduce your
6 licensee.

7 MR. UEOKA: I'm sorry. This is Robert Ueoka
8 along with Ed Treschuk of Foodland. Last name is spelled
9 T-R-E-S-C-H-U-K. At this time we would like to enter a
10 plea of no contest and waive reading of the charge.

11 CHAIR FUJII: Okay. And, again, do you
12 represent the Respondent involved, Mr. Ueoka?

13 MR. UEOKA: Yes, I do.

14 CHAIR FUJII: Are you their legal counsel?

15 MR. UEOKA: Yes.

16 CHAIR FUJII: Do you understand the charge
17 against you?

18 MR. UEOKA: Yes.

19 CHAIR FUJII: And what is your plea, again, for
20 the record?

21 MR. UEOKA: No contest.

22 CHAIR FUJII: Thank you. Do you understand the
23 violation the Department of Liquor Control alleges against
24 you?

25 MR. UEOKA: Yes, I do.

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1 CHAIR FUJII: Do you understand the right to
2 plead not guilty?

3 MR. UEOKA: Yes.

4 CHAIR FUJII: Do you understand that pleading no
5 contest on Count 1, you waive the right to a hearing in
6 which you could present evidence and question witnesses on
7 your behalf?

8 MR. UEOKA: Yes.

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

12 MR. UEOKA: Yes.

13 CHAIR FUJII: Do you understand, on Count 1, if
14 the Board accepts your plea of -- of no contest, you will
15 be found guilty, and that the Board may issue a reprimand,
16 or assess and collect a penalty of up to \$2,000, or revoke
17 the license at any time, or suspend the license to -- to
18 not being able to use the licensee's license?

19 MR. UEOKA: Yes.

20 CHAIR FUJII: Do you still wish to plead no
21 contest?

22 MR. UEOKA: Yes.

23 CHAIR FUJII: The Board hereby finds the
24 licensee has entered a knowing and voluntary plea of no
25 contest. The Board accepts your plea and finds you guilty

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1 of Count 1 reflected in Complaint and Accusation Number
2 2017-15. Mr. Hanano, will the Department please present a
3 summary of the case?

4 MR. HANANO: Yes. Thank you, Chair. This case
5 involved a minor decoy operation which took place on
6 Thursday, October 20th, 2016. The Minor Decoy Team was
7 comprised of Liquor Control Officers Jarrett
8 Kahooohanohano, Kayle Matsushima, Cielo Molina, Robert
9 Shiige, MPD Officers Lawrence Pagaduan and Marvin Tevaga
10 and a female minor decoy.

11 The Minor Decoy Checklist was reviewed with the
12 minor decoy informing her of the requirements and rules
13 pertaining to minor decoy operations. The rules required,
14 among other things, that the minor decoy carry her valid
15 Hawaii State driver's license on her person at all times,
16 that she answer any questions about her age truthfully,
17 and that she present her valid Hawaii State driver's
18 license when asked by any employee of the licensed
19 premises to do so. The minor decoy reviewed and signed
20 the Minor Decoy Checklist indicating she understood what
21 was read to her. The minor decoy's Hawaii driver's
22 license was printed in a vertical format, which clearly
23 indicated that the minor decoy became 21 years of age on
24 2-21-2019. As part of the operation, the minor decoy was
25 provided with a 20-dollar bill to use as buy money.

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1 On October 20, 2016, at about 8:26 p.m., Officer
2 Tevaga entered the Foodland Supermarket located at 345
3 Keawe Street, Space C-104, Lahaina, Maui, Hawaii. About a
4 minute later, the minor decoy entered the store.
5 Following that, the minor decoy walked towards the wine
6 section and selected a bottle of Josh brand Chardonnay
7 wine from the shelf. After that, the minor decoy went to
8 checkout -- the checkout line and handed the bottle of
9 wine to the sales clerk later identified as Lady Dagdagan.
10 Prior to completing the sale Dagdagan asked the minor
11 decoy for her identification, at which time the minor
12 decoy handed Dagdagan her valid Hawaii driver's license.
13 Officer Tevaga, who was directly behind the minor decoy,
14 observed Dagdagan check the ID, then attempt to make the
15 sale. However, when entering the minor decoy's birthdate
16 into the system, the register would not allow the sale to
17 be processed. According to Officer Tevaga, Dagdagan
18 appeared to be puzzled as to why the sale could not
19 proceed and, thus, allowed Officer Tevaga to check out his
20 items before the minor decoy.

21 After the sale was completed, Officer Tevaga
22 stood nearby and observed Dagdagan override the register
23 and proceed with the sale of the liquor to the minor. In
24 this regard, Officer Tevaga observed the minor decoy hand
25 Dagdagan the 20-dollar buy money and observed Dagdagan

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1 subsequently hand the minor decoy the change. The minor
2 decoy then took the change and the bottle of wine, exited
3 the store, then headed back to the operations vehicle,
4 which was in the parking lot outside. Following that,
5 Officer Tevaga informed Dagdagan that she had just sold
6 liquor to a minor.

7 As part of the investigation, Lady Dagdagan was
8 interviewed, at which time she provided the following
9 statement: Stated that she had been working for Foodland
10 since March 2016; stated that she had gone through
11 training on the proper checking of identifications;
12 indicated that the training is informal where trainers
13 from Oahu explain the checking of IDs as part of the
14 program. As far as the sale to the minor decoy, Dagdagan
15 stated that she did ask and checked the minor's -- minor
16 decoy's ID, but did not ask for a minor decoy's age. She
17 claimed that the ID she inspected was not in the vertical
18 format, but in the horizontal format. Dagdagan could not
19 remember the birthdate that was on the minor decoy's ID
20 that was prevented -- presented to her.

21 Nothing further, Chair.

22 CHAIR FUJII: Thank you, Mr. Hanano. Any
23 questions by Members of the Board regarding the report as
24 submitted by Mr. Hanano? Anyone? If not, Mr. Ueoka, you
25 now have the opportunity to make a statement regarding

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1 this case. You may also inform the Board of any
2 mitigating circumstances which may or may not apply to
3 sentencing.

4 MR. UEOKA: Thank you, Mr. Chair. This employee
5 clearly made a mistake and she mentioned she became
6 puzzled. She was adequately trained. I think she
7 mentioned that it was informal training, but, actually,
8 Foodland's training is much -- it's very formal and
9 thorough. Foodland actually does an in-person trainer
10 that trains people on the sale of alcohol. They also give
11 an examination, pretty thorough examination, on the
12 selling of liquor and following the rules and what to do
13 in different situations, and even identifying IDs and
14 accepting or rejecting certain IDs. In addition to the
15 training and the examination, they also make employees
16 sign an acknowledgment form. Employees admit and
17 acknowledge that they did -- were adequately trained and
18 -- of the consequences of any violation.

19 And this employee is no longer with the company
20 and was disciplined accordingly for this incident. It's
21 very unacceptable to Foodland and -- for these kind of
22 errors to be made, especially the seriousness of -- of the
23 violation.

24 We also do retraining about 15 months, just
25 refresher training of employees, just so they're reminded

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1 and -- their skills are, they're aware of avoiding the
2 sale of liquor to minors.

3 Mr. Treschuk is available to answer any
4 questions, but I can answer questions as well if you
5 have -- if the Board has any questions.

6 CHAIR FUJII: Okay. Thank you, Mr. Ueoka. Any
7 questions directed to Mr. Ueoka or Mr. Treschuk?

8 MEMBER U`U: Question.

9 CHAIR FUJII: Bruce.

10 MEMBER U`U: The comment made by overriding the
11 system, what does that entail?

12 MR. TRESCHUK: It means that she either put in a
13 false date or she put in -- well, it's a false date. The
14 system requires to take the date from the ID and punch it
15 in. But, unfortunately, in times of expediency, they have
16 a quick date they put in, but that's actually a violation.
17 I mean, that's a fireable offense as well. So she had to
18 not read off there and put in an override, a different
19 date. There is no override other than the date.

20 MEMBER U`U: Okay.

21 CHAIR FUJII: Okay. Any other questions?
22 Mr. Treschuk, I know Mr. Ueoka did say the training
23 involved with new employees. Could you just briefly give
24 us a summary of those that handle liquor, cashiers?

25 MR. TRESCHUK: So every new employee goes

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1 through cashier training either at the store where they're
2 hired or at the Oahu training center, in Maui, it would be
3 at that store. We have a trainer that goes through a full
4 training session, including about two hours on liquor
5 awareness. I have the materials here if you would like to
6 do it. Then they have a test at the end of that. And
7 they also do daily sign-outs of their till that they've
8 acknowledged what they -- what the dates are, what that
9 date, legal date is, and then, of course, the POS system
10 comes up and says, you know, is this person of age and
11 requires an ID and -- you know, so that's all the checks
12 in place. And we take it really seriously. This is
13 unfortunate incident, but she clearly made an error.

14 CHAIR FUJII: Okay. Thank you. Any further
15 question? Bruce.

16 MEMBER U`U: The question about the -- the
17 format of the ID, they claimed to be it was horizontal,
18 not vertical.

19 MR. UEOKA: She made a mistake. It was -- it
20 was clearly vertical. I don't know if she misrepresented
21 or just was confused on the question, but, clearly, it was
22 vertical. And we acknowledge that.

23 MEMBER U`U: Okay.

24 CHAIR FUJII: Yeah. That's -- that's the
25 biggest item that get triggers off, you know, we -- we can

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1 always tell the licensees that do appear before us, and
2 I'm sure the Department in the training of -- when
3 Department does training, they also -- you know, it's --
4 where if they ask for the ID, there's no reason why they
5 shouldn't deny 'em when it's vertical.

6 MR. UEOKA: We highlight that in our training,
7 but it doesn't resonate with everyone.

8 CHAIR FUJII: And we do have people -- licensees
9 that do come here and appear. And some of them not even
10 aware, I don't know how -- you know, the licensee
11 themselves are not aware. So, of course, cashiers not
12 gonna be aware of that, also.

13 DIRECTOR MUKAI: Mr. Chair?

14 CHAIR FUJII: Yes.

15 DIRECTOR MUKAI: We provide the licensee with ID
16 checking guide, the U.S. and Canada, ID checking guide,
17 which shows all the states and Canada, you know. Also
18 provide them with the International ID Checking Guide
19 which shows the passports. All licensee are given that.
20 And, also, we had from the Department of Finance,
21 Licensing Division, that shows the vertical and horizontal
22 and what to look for. It's provided to all the licensees.
23 And, also, during our classes, we certify people. And how
24 we certify them, we have the touchy feely where we show
25 them this is a minor and this is the adult. So if you

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1 have to hold it this way, you know it's a minor. So
2 there's no excuse for the certified person or the licensee
3 to say they really don't know.

4 CHAIR FUJII: Yeah. Even as parents, I'm sure
5 most of the Board Members, our children are older than 21,
6 so we're not even aware until come to a meeting like this
7 and find out, oh, there is two different types of, you
8 know, licenses. So, again, if we're not aware, then
9 definitely the licensees should be on the top of their
10 training program about those licenses. Okay. Thank you,
11 Mr. Mukai.

12 DIRECTOR MUKAI: You're welcome.

13 CHAIR FUJII: Any other questions, then? No
14 further questions. Mr. Hanano.

15 MR. HANANO: I'm sorry?

16 CHAIR FUJII: Have the Director's argument as to
17 penalty.

18 MR. HANANO: Yes. Thank you. Original license
19 for this licensee was issued back in December of 2010.
20 There are no prior convictions. In light of that, we're
21 recommending, in Count 1, a \$2,000 fine with \$1,000
22 suspended on the condition that there is no further
23 convictions for the same offense within a year.

24 CHAIR FUJII: Thank you, Mr. Hanano. The Board
25 will take all matters that were presented here into

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1 consideration. At this time we would like a motion to go
2 into deliberation.

3 MEMBER U`U: Motion to deliberate.

4 MEMBER ARIAGA: Second.

5 CHAIR FUJII: Moved by Bruce and seconded by
6 Candace. Any discussion? If not, all in favor, say
7 "aye."

8 (Response.)

9 CHAIR FUJII: Motion carried. We will call you
10 back later.

11 MR. UEOKA: Thank you.

12 (Deliberations, 9:41 a.m. to 9:48 a.m.)

13 CHAIR FUJII: The Board is back in open session.
14 Mr. Ueoka, Mr. Treschuk, the Board, after deliberation,
15 has assessed a penalty of \$2,000 on Count 1 of which 1,000
16 will be suspended provided there's no violation of the
17 same offense within a period of one year. And we
18 appreciate you being here. The Department will notify you
19 when payment is due. Thank you.

20 MR. UEOKA: Thank you very much.

21 MR. TRESCHUK: Thank you.

22 CHAIR FUJII: We will now hear Complaint and
23 Accusation Number 2017-20 against Roy's Limited
24 Partnership [sic] doing business as Roy's Kaanapali. Will
25 the Respondent and representative step forward, state your

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1 name and in what capacity you represent the licensee?

2 MR. WEBBER: Good morning. I'm Michael Webber.
3 I'm the Director of Operations for Roy's Restaurants here
4 in Hawaii.

5 MR. DOCHIN: Good morning. My name is Matt
6 Dochin, I'm the general manager at Roy's Kaanapali.

7 CHAIR FUJII: Matt, your name would be difficult
8 to spell, so we'll call you Matt. Okay?

9 MR. DOCHIN: Yes.

10 CHAIR FUJII: You are the GM there?

11 MR. DOCHIN: Yes.

12 CHAIR FUJII: Thank you. Again, Mr. Webber, you
13 have the option of having the charge -- charges publicly
14 read or you can waive the reading. What is your
15 preference?

16 MR. WEBBER: Waive the reading, please.

17 CHAIR FUJII: Do you have -- do you represent
18 the Respondent involved?

19 MR. WEBBER: I do.

20 CHAIR FUJII: Do you have legal counsel?

21 MR. WEBBER: I do not.

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

24 MR. WEBBER: I do.

25 CHAIR FUJII: Do you understand the charges

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1 against you?

2 MR. WEBBER: I do.

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

5 MR. WEBBER: No contest.

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

9 MR. WEBBER: I do.

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

12 MR. WEBBER: I do.

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

17 MR. WEBBER: Yes, sir.

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. WEBBER: Yes.

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 the Board may issue a reprimand
25 or assess a penalty of \$2,000 on each count, or revoke any

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1 license at any time, or suspend the licensee to use his
2 license?

3 MR. WEBBER: I do.

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

6 MR. WEBBER: Yes.

7 CHAIR FUJII: The Board hereby finds that the
8 licensee has entered a knowing and willing -- voluntary
9 plea of no contest. The Board accepts your plea of no
10 contest reflected in Complaint and Accusation Number
11 2017-20. Will the Department present a summary of the
12 case, Mr. Hanano?

13 MR. HANANO: Yes. Thank you, Chair. This case
14 involved a minor decoy operation which took place on
15 Friday, December 16th, 2016. The Minor Decoy Team was
16 comprised of Liquor Control Officers Cielo Molina, Robert
17 Shiige, MPD officers Ryan Saribay, Jeremy Pallone-De La
18 Torre, and a male minor decoy.

19 The male Minor Decoy Checklist was reviewed with
20 the minor decoy informing him of the requirements and
21 rules pertaining to minor decoy operations. The rules
22 required, among other things, that the minor decoy carry
23 his valid Hawaii State driver's license on his person at
24 all times, that he answer any questions about his age
25 truthfully, and that he present his valid Hawaii State

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1 driver's license when asked by any employee of the
2 licensed premises to do so. The minor decoy reviewed and
3 signed the Minor Decoy Checklist indicating he understood
4 what was read to him. The minor decoy's Hawaii driver's
5 license was printed in a vertical format which clearly
6 indicated that the minor decoy became 21 years of age on
7 10-2-2017. As part of the operation, the minor decoy was
8 provided with a 20-dollar bill to use as buy money.

9 On December 16th, 2016, at about 8:20 p.m.,
10 Officer Saribay entered the premises of Roy's Kaanapali
11 located at 2290 Kaanapali Parkway, Maui, Hawaii. About a
12 minute later, the minor decoy entered the premises and sat
13 at the bar. Officer Saribay sat down at the corner of the
14 bar where he had an unobstructed view of the minor decoy
15 who sat approximately five seats down from the bar
16 counter. After sitting at the bar counter, a female
17 bartender, later identified as Jonica Reid, asked the
18 minor decoy, "What would you like to drink?" In response,
19 the minor decoy stated, "Bud Light in a glass cup,
20 please." Reid then asked the minor decoy for his
21 identification, at which time he produced and handed Reid
22 his valid Hawaii driver's license. After checking the
23 minor decoy's Hawaii driver's license for about three to
24 five seconds, Reid handed the ID back to the minor decoy.
25 Following that, Reid later returned with a bottle of Bud

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1 Light beer, poured the beer in the glass and placed the
2 glass containing the Bud Light beer in front of the minor
3 decoy. After that, Reid walked away to serve other
4 patrons. The minor decoy then took hold of the glass
5 containing the Bud Light beer, at which time Officer
6 Saribay moved towards the minor decoy to secure the glass
7 Bud Light beer as evidence. The minor decoy immediately
8 exited the premises and returned to the operations
9 vehicle.

10 As part of the investigation, bartender Jonica
11 Reid was interviewed, at which time she provided the
12 following statement: Stated that she had been working for
13 Roy's for about two years; according to Reid, she did not
14 have any training on the proper checking of identification
15 other than the initial employee training and pre-service
16 meetings; Reid admitted that she did serve liquor to the
17 minor decoy and that she had done the math wrong when she
18 checked the birthdate on the minor decoy's Hawaii driver's
19 license.

20 Also, as part of the investigation, the manager
21 on duty at the time of the sale, Matt Dochin, was
22 interviewed at which time he provided the following
23 statement, in pertinent part: Stated he was the manager
24 on duty and did have a employee approved by the Director
25 card; stated that there were about nine employees working

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1 the front of the house, including two bartenders behind
2 the bar, with about 50-plus patrons seated; when asked
3 about the training for employees regarding the proper
4 checking of IDs, Dochin stated that there is training for
5 checking of identification during the initial new employee
6 training as well as a pre-service meeting, pre-service
7 meeting and reminder about checking IDs for anyone
8 ordering liquor who looks under 40 years of age.

9 Thank you, Chair.

10 CHAIR FUJII: Okay. Thank you, Mr. Hanano. Any
11 questions by Members of the Board regarding the report
12 submitted by Mr. Hanano? If not, we will let the licensee
13 make a statement.

14 MR. WEBBER: We acknowledge that our -- that we
15 provide alcohol to a minor. We're very sorry. We had an
16 issue with that employee, that night, they have been
17 reprimanded and suspended. And we instituted a new
18 training process that, quarterly, we formally train
19 everyone again, the process required, to properly check
20 IDs.

21 CHAIR FUJII: Matt, would you want to make a
22 statement?

23 MR. DOCHIN: Yes. In addition to the quarterly
24 training of how to check IDs, we talk about how to
25 identify intoxicated guests, we cover not over-serving

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1 guests, and that we have posted the born on or after dates
2 in our bar area and in the back kitchen area by our ohana
3 bulletin board and bus station. So everybody -- it's in
4 clear view for everybody daily.

5 CHAIR FUJII: Okay. Questions by Members of the
6 Board directed to the licensee?

7 MEMBER U`U: Again, same question as the prior.
8 Was the license in a vertical format or horizontal?

9 MR. HANANO: Vertical.

10 MR. DOCHIN: And then -- thank you. Thank you,
11 Liquor Commission, for giving us these. These -- these
12 are posted as well in our ohana area, in clear view, so
13 everybody gets the opportunity to view that and study
14 that.

15 MEMBER DE MELLO: I have a question.

16 MR. DOCHIN: Yes.

17 MEMBER DE MELLO: You stated that you have
18 suspended the employee. So the employee is still working
19 there?

20 MR. DOCHIN: Yes. We -- she was suspended
21 through the remainder of that schedule. We had a meeting
22 with our management team and we took into consideration
23 that she was an employee in good standing, she had never
24 had any prior instances like this, she is a veteran of the
25 restaurant industry, been a manager for many years, been a

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1 bartender with us for about two years. That morning, she
2 had worked a double shift with us. Upon coming into work,
3 she had been notified of some very difficult bad news
4 about her mother in Florida. So we took all of these
5 things into consideration.

6 MEMBER DE MELLO: I just want to ask you one
7 more question. You heard the Prosecutor stated that she
8 stated that she had no training?

9 MR. DOCHIN: No -- no follow-up training since
10 the initial --

11 MEMBER DE MELLO: So she had training prior to?

12 MR. DOCHIN: She had training upon hire. And at
13 the daily pre-shift meetings we do cover asking for IDs
14 especially because we are in a resort area with a lot of
15 visitors.

16 MEMBER DE MELLO: Uh-huh. Okay.

17 CHAIR FUJII: Okay. All done, JB?

18 MEMBER DE MELLO: Uh-huh.

19 CHAIR FUJII: Any questions, Bruce?

20 MEMBER U`U: I would just like to comment that I
21 like -- I like that you added -- you took into account the
22 value of your employee.

23 MEMBER UEOKA: Her years of service.

24 MEMBER U`U: I like that, yeah, you know. Gotta
25 balance the good with the bad, so I like that. Personal

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1 comment for myself, non-reflective of anybody else here.

2 I could be wrong.

3 CHAIR FUJII: All right, Bruce. One question.

4 How many employees would be involved with the serving of

5 liquor? Maybe it was in the report, but I didn't get it.

6 About how many employees you have there at Roy's?

7 MR. DOCHIN: On staff that night or --

8 CHAIR FUJII: No. Total.

9 MR. DOCHIN: Total.

10 CHAIR FUJII: Roughly.

11 MR. DOCHIN: About --

12 CHAIR FUJII: Servers.

13 MR. DOCHIN: -- 20 to 25 servers and bartenders.

14 CHAIR FUJII: Two dozen, 24, 25?

15 MR. DOCHIN: Yes.

16 CHAIR FUJII: And, again, they -- even the ones
17 that not only did the -- because you're not in the retail
18 business here. So the waitresses and the waiters as well
19 as the bartenders, they -- they are the ones that need the
20 training. Is it once you do the training or is there
21 follow-up, you know, over the years or whatever it might
22 be?

23 MR. DOCHIN: Well, after this instance, we have
24 now implemented a quarterly training, follow-up
25 retraining, yes.

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1 MR. WEBBER: It's a formal follow-up, but we
2 have a daily meeting, operation meeting every day where we
3 have a culture of compliance, we always have. And -- and
4 these things are covered regularly, but maybe not
5 considered formal training. But our culture is of
6 compliance and we talk about these things regularly.

7 CHAIR FUJII: Okay. Any further questions? If
8 not, Mr. Hanano, what would be the Director's argument as
9 to penalty?

10 MR. HANANO: Yes. Thank you, Chair. Original
11 license for this licensee was issued back in March of
12 2012. There are no prior convictions whatsoever. In
13 light of that, we're recommending, in Count 1, a \$2,000
14 fine with \$1,000 suspended on the condition that there are
15 no further convictions for the same offense within one
16 year. And, in Count 2, a \$500 fine.

17 CHAIR FUJII: Thank you, Mr. Hanano.

18 MR. HANANO: Thank you.

19 CHAIR FUJII: The Board will take all matters
20 that was discussed at this hearing. I will entertain a
21 motion to go into deliberation.

22 MEMBER ARIAGA: Motion.

23 MEMBER DE MELLO: Second.

24 CHAIR FUJII: Moved by Candace, seconded by JB
25 to go into deliberation. Any discussion? If not, all in

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1 favor of the motion say "aye."

2 (Response.)

3 CHAIR FUJII: Motion carried. We'll call you
4 back later.

5 MR. WEBBER: Thank you.

6 MR. DOCHIN: Thank you.

7 (Deliberations, 10:01 a.m. to 10:17 a.m.)

8 CHAIR FUJII: The Board is back in open session.
9 Mr. Webber and Matt here, on Count 1 -- the Board has
10 deliberated both Count 1 and Count 2. On Count 1, the
11 Board has issued a penalty of \$2,000 of which \$1,000 will
12 be suspended provided there is no reoccurrence of the same
13 violation within a period of one year. On Count 2, the
14 Board has issued a penalty of \$500 of which \$500 will be
15 suspended provided there is no reoccurrence of the same
16 violation within a period of one year. Again, thank you
17 for coming here. And I think we thoroughly reviewed
18 everything that was presented and that's the penalties
19 that we came up with.

20 MR. WEBBER: Thank you very much.

21 CHAIR FUJII: And the Department will notify you
22 when payment is due.

23 MR. WEBBER: Thank you.

24 MR. DOCHIN: Thank you.

25 CHAIR FUJII: We will now hear Complaint and

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1 Accusation Number 2017-17 against Miso Crazy Sushi, LLC
2 doing business as Miso Phat Sushi. Will the Respondent or
3 its representative please step forward and state your name
4 and in what capacity you represent the Respondent?

5 MR. STEADMAN: Good morning, everyone. My name
6 is Shawn Steadman, Ronald Shawn Steadman, owner of Miso
7 Phat Sushi.

8 CHAIR FUJII: Mr. Steadman, will you spell your
9 last name?

10 MR. STEADMAN: Yes. S-T-E-A-D-M-A-N.

11 CHAIR FUJII: Thank you. Mr. Steadman, you have
12 the option of having the charges publicly read or you can
13 waive the reading. What is your preference?

14 MR. STEADMAN: Publicly read.

15 CHAIR FUJII: You want it publicly read?

16 MR. STEADMAN: Yeah.

17 CHAIR FUJII: Okay. Sarah, please.

18 MS. CORDEIRO: Complaint and Accusation Number
19 2017-17, In the Matter of the Accusation against Miso
20 Crazy Sushi, LLC dba Miso Phat Sushi, Dispenser General
21 License Number 161, at 1279 South Kihei Road, Suite 108,
22 Kihei, Maui, Hawaii.

23 Count 1: On September 23rd, 2016, at
24 approximately 8:55 p.m., Miso Crazy Sushi, LLC dba Miso
25 Phat Sushi, a Dispenser General licensee, did, through its

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1 employee(s), sell, serve or furnish liquor to a minor as
2 defined in Section 281-1 of the Hawaii Revised Statutes
3 and Section 08-101-5 of the Rules of the Liquor
4 Commission, contrary to Section 281-78(b)(1)(A) of the
5 Hawaii Revised Statutes and Section 08-101-60(b)(1)(A) of
6 the Rules of the Liquor Commission, County of Maui.

7 Count 2: On September 23rd, 2016, at
8 approximately 8:55 p.m., Miso Crazy Sushi, LLC dba Miso
9 Phat Sushi, a Dispenser General licensee, did, through its
10 employees, fail to properly check the identification of a
11 minor as defined in Section 281-1 of the Hawaii Revised
12 Statutes and Section 08-101-5 of the Rules of the Liquor
13 Commission, contrary to Section 08-101-61(c) of the Rules
14 of the Liquor Commission, County of Maui.

15 CHAIR FUJII: Thank you, Sarah. Mr. Steadman,
16 do you represent the Respondent involved?

17 MR. STEADMAN: I do.

18 CHAIR FUJII: Do you have legal counsel?

19 MR. STEADMAN: I do not.

20 CHAIR FUJII: Do you understand that you have a
21 right to have your legal counsel present?

22 MR. STEADMAN: Yes, sir.

23 CHAIR FUJII: Do you understand the charges
24 against you?

25 MR. STEADMAN: Yes, sir.

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

2 MR. STEADMAN: No contest.

3 CHAIR FUJII: Are you changing your plea?

4 MR. STEADMAN: Yes, sir.

5 CHAIR FUJII: I see. And what is your count --

6 what is your plea to Count 2?

7 MR. STEADMAN: No contest.

8 CHAIR FUJII: Give us a minute to readjust our
9 agenda here, please.

10 MR. STEADMAN: You bet.

11 MS. CORDEIRO: Is that what you wanted to do?
12 Can he take a moment, Mr. Chair?

13 MR. STEADMAN: Oh, I'm sorry. Not guilty on
14 both charges.

15 CHAIR FUJII: Yeah, we thought we were gonna
16 get -- to get out of here in 20 minutes.

17 MR. STEADMAN: You are -- you are now.

18 CHAIR FUJII: We better take another break
19 before we get -- let's start all over again on --

20 MR. STEADMAN: Yes, sir.

21 CHAIR FUJII: -- where we left off -- before we
22 left off. Do you understand the charges against you?

23 MR. STEADMAN: Yes, sir.

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

25 MR. STEADMAN: No contest -- I mean -- I'm

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1 sorry -- not guilty. Stuck in my head, sorry. Everybody
2 else did that today.

3 CHAIR FUJII: Okay. And to Count 2, sir?

4 MR. STEADMAN: Not guilty.

5 CHAIR FUJII: Okay. Thank you. Is the
6 Department and Respondent ready to proceed?

7 MR. HANANO: Yes, Chair.

8 CHAIR FUJII: This hearing will -- shall be
9 taken into two phases. If the Board finds the Respondent
10 guilty, Department and Respondent will be given an
11 opportunity to present arguments to the Board as to what
12 the penalty should be.

13 At this time, the Board will now invoke the
14 exclusionary rule and ask any witnesses in this case to
15 wait outside. If you have witnesses that will be
16 testifying here, so anybody that's going to testify at the
17 podium there as a witness, you need to be removed from the
18 room until we call you.

19 MR. STEADMAN: Okay.

20 CHAIR FUJII: At this time, Mr. Hanano, we'll
21 have the Department offer the opening statement.

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

23 On September 23rd, 2016, the Department of
24 Liquor Control conducted what is called a minor decoy
25 operation on the licensee, Miso Crazy Sushi doing business

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1 as Miso Phat Sushi, located at 1279 South Kihei Road,
2 Kihei, Maui. What you will hear is, basically, what goes
3 into a minor decoy operation.

4 You'll see photographs of the minor that was
5 used in the operation, how she appeared at the time of the
6 operation. You will also see how she was dressed, what
7 she looked like. You'll see a copy of her Hawaii driver's
8 license that was actually used in the operation. You will
9 hear testimony from the minor decoy as well as other
10 witnesses, Liquor Control officers and sergeant -- a
11 sergeant from the Maui Police Department, as to what
12 transpired that evening.

13 Basically, what you will hear is the minor decoy
14 went into Miso Phat Sushi on that date, that night, sat at
15 the bar. It was a very busy night. She ordered a
16 Heineken beer, was asked to produce her ID, which she did,
17 which was in a vertical format. The bartender or the
18 server looked at the ID for approximately five seconds,
19 returned it to the minor decoy and returned subsequently
20 with the Heineken, poured it into a glass and served it to
21 the minor. This was all witnessed by Sergeant Eric Lee
22 Correa who was standing right outside the restaurant and
23 was observing the whole transaction through a window.

24 At the end of the case, we will ask you to find
25 the licensee guilty as charged. Thank you.

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1 CHAIR FUJII: Thank you, Mr. Hanano.

2 Mr. Steadman, you have an opportunity to make an
3 opening statement.

4 MR. STEADMAN: Yes. As my witness -- well,
5 first of all, we -- you know, company policy for us is to
6 ask anyone if they have an ID proper or age, we receive
7 the response and then we also card after this. We card
8 everyone that looks under 30 years old. All servers have
9 their liquor cards and are trained, you know, through our
10 personal policy, our company policies. We take the
11 liquor -- you know, we take the liquor carding and all
12 liquor laws very, very serious.

13 The minor in the sting operation has agreed to
14 the fact that when asked her name or her age that she
15 would answer properly, she checked this, signed it. She
16 was asked by the server in which to where she lied and
17 said that she was 21. And then she was carded. And the
18 server came about to the numbers where he -- well, we
19 found out that he has a form of dyslexia, that he does
20 have a little issue with numbers. We've made it a point
21 to train a manager, if he's involved in a situation, ever,
22 to be carded again, that he would have someone else do the
23 carding. He's still employed with us. There was a week
24 suspension for his -- for this action until I was more
25 informed and cleared up of the knowledge of what had

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1 actually happened. And he's been on good terms. Been in
2 the business for 20-plus years with no prior liquor
3 convictions or -- or, you know, even fines or anything.
4 So we put him in good standards, as far as we're
5 concerned, to keep him employed.

6 CHAIR FUJII: That's the opening statement?

7 MR. STEADMAN: Uh-huh.

8 CHAIR FUJII: Thank you. At this time,
9 Mr. Hanano, you may have your witness, if you have --
10 invite your witness in.

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

12 CHAIR FUJII: Okay.

13 MR. HANANO: Department will call Liquor Control
14 Officer Cielo Molina as its first witness.

15 CHAIR FUJII: Ms. Molina, if you would stand by
16 the podium there? I will be reciting the oath and I would
17 like you to respond to the oath.

18 MS. MOLINA: Okay.

19 CHAIR FUJII: Ms. Molina, do you solemnly swear
20 or affirm that the testimony that you are about to give
21 before this Board in connection with this case will be the
22 truth, the whole truth and nothing but the truth?

23 MS. MOLINA: I do.

24 CHAIR FUJII: Thank you. Mr. Hanano, your
25 witness.

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1 MR. HANANO: Thank you, Chair.

2 CIELO MOLINA

3 was called as a witness on behalf of the Department; after
4 having been first placed under oath, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. HANANO:

7 Q Please state your name and occupation for the
8 record.

9 A My name is Cielo Molina, I'm a Liquor Control
10 Officer II.

11 Q And how long have you been a Liquor Control
12 Officer?

13 A I've been a Liquor Control Officer for the past
14 two and-a-half years.

15 Q Were you so employed and on duty as a Liquor
16 Control Officer on September 23rd, 2016 at about 3:30
17 p.m.?

18 A Yes.

19 Q And what was your assignment on that date?

20 A I was assigned to do minor decoy operations.

21 Q Okay. So you did. Was it more than one on that
22 day or --

23 A Yes, we had several that day. And I was the
24 assigned primary investigator.

25 Q All right. Can you explain to the Board, you

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1 know, what's involved in a decoy operation?

2 A When we are assigned to a primary investigator
3 as -- I mean, a minor decoy operations as a primary
4 investigator, I am tasked to review and do a briefing with
5 the minor decoy prior to the operations. We review the
6 minor checklist, what they can and cannot do during the
7 operations. And we check their ID. We take photographs
8 of the minor the way they're going to appear when they go
9 into the licensed premises. I also check the buy money
10 that's gonna be given to the minor. We take the serial
11 number of the buy money so that we track the buy money at
12 all times. I go over -- we have -- also have a briefing
13 prior to the operations because, once we go out in the
14 field, the minor already knows what to do.

15 Q Thank you. So later on that afternoon or that
16 evening, I should say, were you, in fact, involved in a
17 minor decoy operation involving a licensee by the name of
18 Miso Phat Sushi located at 1279 South Kihei Road, Number
19 108?

20 A Yes.

21 Q And what was your role in this minor decoy
22 operation involving that licensee?

23 A As the primary investigator, I stay in the
24 operations vehicle at all times and brief the minor when
25 they can leave. Once the observer goes into the premises,

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1 I wait for 30 seconds before I send the minor decoy with
2 the buy money, that I give to the minor decoy, and send
3 them to the licensed premises.

4 Q Okay.

5 A I stay in the operations vehicle until I am
6 notified that a sale has consumed -- consummated, rather.

7 Q Okay. So you're -- I think you mentioned an
8 observer.

9 A Yes. An observer is the police officer.

10 Q Okay. And that observer goes into -- the minor
11 decoy into the establishment when --

12 A Usually, the minor -- the observer goes in
13 first. There have been instances where the minor decoy
14 goes first and the observer will go in right away.

15 Q Okay. The bottom line is you weren't the
16 observer that --

17 A No.

18 Q -- that evening? Okay. Now, let's get into the
19 actual operation that night. Do you remember what time
20 you arrived at the location?

21 A We arrived around 8:45 in the premises -- not in
22 the premises, but on Azeka Shopping Center across the
23 street.

24 Q Okay. So that's across the street from Miso
25 Phat Sushi?

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1 A Yes.

2 Q All right. And when you arrived there, who was
3 with you?

4 A We arrived in two vehicles. In one vehicle is
5 the minor decoys, myself and one of the super -- operating
6 supervisors for the evening. And the other -- that
7 particular night, there were two. One LCO was training to
8 be a supervisor, so she was with the assigned supervisor
9 that evening. In the other vehicle is the police officers
10 and, also, the assisting investigator.

11 Q Okay. And just for the record, do you remember
12 what the minor decoy's name was?

13 A Taylor Akamine.

14 Q Now, can you explain to the Board what happened
15 when you got to the location or after?

16 A When we got to the operations, it was a Fourth
17 Friday, so it was very busy. And so what happened is the
18 observer were allowed to go into the premises. The minor
19 decoy, I gave him the buy money -- I gave her the buy
20 money and instructed her to go to the licensed premises.

21 Q Okay. At some point, did she enter -- did she
22 enter the premises?

23 A Yes.

24 Q And you saw that?

25 A At that point, when she crosses the street and

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1 goes towards the licensed premises, now I -- I am not able
2 to see her at that point.

3 Q Okay.

4 A The observer will be there.

5 Q All right. So, at some point, you lose sight of
6 her. And then what was your next -- what -- what happened
7 after that? What was your next thing that happened?

8 A The next thing that happened is I wait until I
9 get -- got a phone call that a liquor sale has
10 consummated.

11 Q Okay. And did you receive that call --

12 A Yes.

13 Q -- eventually? All right. And once you
14 received that call, what did you do?

15 A When I get that call, I walk across the street
16 and I head towards the licensed premises and to interview
17 the person that made the sale and, also, to ensure that
18 the minor decoy is taken out of the premises and put into
19 the operations vehicle to protect the minor decoy's
20 safety.

21 Q All right. And did you actually go to the
22 premises as part of your duties as the investigator in
23 this case?

24 A Yes.

25 Q And then what did you do?

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1 A I proceeded in the back. The server was in the
2 back, in the kitchen area, with one of the observers,
3 which is Sergeant -- I mean Police Officer Sergeant
4 Correa. And I waited for my turn to finish -- for
5 Sergeant Correa to finish interviewing and discussing it
6 with the server. Once they were finished, then I stepped
7 in, I introduced myself.

8 Q To the server?

9 A Yes.

10 Q Do you remember what the server's name was?

11 A Robert Hume Park.

12 Q So you spoke to him as part of the
13 investigation?

14 A Yes.

15 Q Did you speak to or take any statements from
16 anybody else as part of the investigation?

17 A I -- after I take the statement from the
18 witness, which is Mr. Park, I also took a statement from
19 the minor decoy as well as Sergeant Correa, the observer.

20 Q Okay. And did you prepare a investigative
21 report reflecting your investigation in this case?

22 A Yes, I did.

23 Q For the record, I'm going to hand you what's
24 been marked as Exhibit -- Department Exhibit D-1 for
25 identification. Do you recognize what that is?

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1 A Yes.

2 Q Okay. What is it?

3 A It is my investigation report that I submitted.

4 Q Okay. All right.

5 A Together with my notice of violation that I
6 issued.

7 Q All right. And that consists of 26 pages,
8 correct?

9 A That is correct, including the exhibits.

10 Q Right. So that's the whole investigation
11 including copies of exhibits and all that other stuff,
12 correct?

13 A Correct.

14 Q Is that a fair and accurate copy of the
15 original?

16 A Yes.

17 MR. HANANO: At this time, Department would move
18 to admit Exhibit D-1 for identification into evidence.

19 CHAIR FUJII: Yeah. Is that okay with you,
20 Mr. Steadman?

21 MR. STEADMAN: Yes.

22 CHAIR FUJII: Okay.

23 MR. KUSHI: Wait. Department? For the
24 licensee, Steadman, have you seen a copy of this report?

25 MR. STEADMAN: I believe I have it here, yes.

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1 MR. KUSHI: Pursuant to the rules, Department,
2 did you send a copy within seven days?

3 MR. HANANO: Yes, I believe we did. Yes.

4 MR. KUSHI: Okay.

5 CHAIR FUJII: Okay, we can continue.

6 Q (By Mr. Hanano) Okay. Ms. Molina, I want to
7 direct your attention to Page 20 to 23 of the Exhibit D-1.
8 Can you turn to that? And when I say page, I'm referring to
9 those numbers with the circle around it, Page 20 to 23.
10 Okay. Are you able to -- can you see that in front of you?

11 A Yes.

12 Q Okay. Now, can you tell me what -- what those
13 are?

14 A These are photographs of the minor. As part of
15 our minor decoy operations, we take photograph of the
16 minor, front, whole body, front view of upper body, side
17 right view and side left view. The reason being is we
18 want to make sure that this is how we can encapsulate how
19 the individual minor decoy looked at the time of the
20 operations.

21 Q Okay. So this is -- this was how Taylor
22 Akamine, based on your recollection, how she looked on the
23 day of the operation?

24 A Yes. They're instructed to stay like this.
25 They cannot add on any other -- whether it's a hat or

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1 eyeglasses. They're prohibited from doing that.

2 Q So this is a fair and accurate representation of
3 how Taylor Akamine looked on September 23, 2016 when the
4 operation was conducted, correct?

5 A That's correct.

6 MR. HANANO: No further questions.

7 CHAIR FUJII: Thank you, Mr. Hanano.

8 Mr. Steadman, you have the opportunity to cross-examine
9 the Director's witness.

10 MR. STEADMAN: I don't have anything for 'em.

11 CHAIR FUJII: Okay, going to pass on that. So,
12 Mr. Hanano, we have other -- you want to dismiss your --

13 MR. HANANO: Yes.

14 CHAIR FUJII: Well, let's let the Board -- the
15 Board -- any Member of the Board that has a question for
16 Ms. Molina regarding this case? Anyone? You have the
17 report in front of you. And if there's anything on the
18 reported that can be directed to Ms. Molina, this is your
19 opportunity for the Board to ask any questions.

20 VICE-CHAIR PAGAN: Yeah, I got one.

21 CHAIR FUJII: Wayne.

22 VICE-CHAIR PAGAN: During the briefing time,
23 during the briefing with the minor --

24 A Uh-huh.

25 VICE-CHAIR PAGAN: -- was she told that she had

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1 to tell the truth and not to lie as far as her age?

2 A Yes. One of the type -- one of the things on
3 the checklist is they are required -- and I explicitly
4 emphasized this to the minor, that when they are asked a
5 question, they have to tell only the truth. And they only
6 are allowed to carry one form of identification, which is
7 their driver's license, which is in a vertical format, as
8 you can see in the photographs.

9 VICE-CHAIR PAGAN: Okay. Thank you.

10 CHAIR FUJIII: Any other question directed toward
11 the witness, Ms. Molina, anyone else from the Board? So,
12 again, Mr. Steadman, you have no questions for the
13 witness?

14 MR. STEADMAN: Just -- yeah, I just want to know
15 who went in first, the minor decoy or the officer.

16 CHAIR FUJIII: I think that was addressed.
17 Mr. Hanano, you want to respond to that?

18 MR. HANANO: I guess it would be for the witness
19 to answer, but I don't think she's the person to answer
20 that. I mean, we can ask her.

21 CHAIR FUJIII: Ms. Molina, you want to respond to
22 the question?

23 A At this time, I'm not able to respond to that
24 because I was not physically there.

25 CHAIR FUJIII: Okay.

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1 A Like I said, I was stationed across the street
2 at the operations vehicle. The observer will have to be
3 the one to respond to that question.

4 CHAIR FUJII: Okay.

5 MR. STEADMAN: We would like to speak to this
6 observer.

7 MR. HANANO: Yeah, we have -- we have more
8 witnesses, Chair. Thank you.

9 CHAIR FUJII: Okay. So, again, no further
10 question for Ms. Molina, thank you for being a witness.
11 You're dismissed. Mr. Hanano, your next witness, if you
12 have any more. Mr. Hanano.

13 MR. HANANO: Yes. Department will be calling
14 Taylor Akamine as its -- as its next witness.

15 CHAIR FUJII: Please state your name.

16 MS. AKAMINE: Taylor Akamine.

17 MR. HANANO: Good morning, Ms. Akamine. For the
18 record, how old --

19 CHAIR FUJII: Mr. Hanano, I would like to --

20 MR. HANANO: Oh, I'm sorry.

21 CHAIR FUJII: Yeah. Ms. Akamine, I'll be
22 reciting the oath, and I would like you to respond to the
23 oath. Do you solemnly swear or affirm that the testimony
24 that you are about to give before this Board in connection
25 with this case will be the truth, the whole truth and

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1 nothing but the truth?

2 MS. AKAMINE: I do.

3 CHAIR FUJII: Thank you. Mr. Hanano.

4 MR. HANANO: Thank you, Chair.

5 TAYLOR AKAMINE,

6 was called as a witness on behalf of the Department; after

7 having been first placed under oath, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. HANANO:

10 Q For the record, Ms. Akamine, how old are you as
11 of today?

12 A 20.

13 Q Okay. What is your date of birth?

14 A May 16, 1996.

15 Q So you turned 21 on --

16 A May 16th.

17 Q This year?

18 A Yeah.

19 Q Are you familiar with the term minor decoy
20 operation?

21 A Yes.

22 Q And in the past, have you ever assisted the
23 County of Maui Department of Liquor Control with any minor
24 decoy operations?

25 A Yeah, just that one time.

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1 Q So you only did it once?

2 A Yeah.

3 Q And this is the one you're referring to on the
4 afternoon and evening of September 23, 2016, involving a
5 restaurant named Miso Phat Sushi on South Kihei Road?

6 A Yeah.

7 Q Now, prior to actually going to Miso Phat Sushi
8 on South Kihei Road, where were you? Where did you meet
9 with anybody from the Department?

10 A We met here at the office.

11 Q Okay. And when you met here at the office, what
12 are some of the things that was discussed with you?

13 A Some of the rules, I guess.

14 Q Okay. And did you go over any kind of
15 checklist?

16 A Yeah. Yeah, we did.

17 Q All right. And what about any -- were any
18 photos taken of you that afternoon?

19 A Yes, right after the checklist.

20 Q Right after the checklist?

21 A Yeah.

22 Q And as far as the clothes that you were wearing,
23 were those your clothes?

24 A Yeah.

25 Q So Department didn't buy it for you or anything

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1 like that?

2 A No.

3 Q Okay. And so your -- photos were taken of you,
4 of how you looked, I guess, as you went into the
5 restaurant?

6 A Yeah.

7 Q Correct? Okay. Okay. I'm going to show you --
8 okay. If you could look at -- I would like to direct your
9 attention to -- Ms. Akamine, if you could look at Page 26.
10 Do you see, on the bottom, there's numbers that are
11 circled?

12 A Uh-huh.

13 Q If you could turn to Page 26, do you recognize
14 what that is? Have you seen that before?

15 A Yes.

16 Q All right. This is Minor Decoy Checklist on the
17 top, correct?

18 A Uh-huh.

19 Q Okay. And you're saying that you went over this
20 list before, correct, on September 26 --

21 A Yeah.

22 Q -- 2016?

23 A Yeah.

24 Q So someone from the Department went over this
25 with you and asked you, or, I guess, told you about these

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1 items on this checklist, correct?

2 A Yes.

3 Q Okay. On the right-hand side, there's a check
4 and a -- looks like a TA, initials. Whose check and
5 initial is that?

6 A I checked and initialed all of them after we
7 went through them.

8 Q Okay. And that's indicating that you understood
9 what was read to you and that you would abide by whatever
10 is in there, correct?

11 A Yes.

12 Q And so, in particular, it says that you have
13 your valid personal identification on you at all times,
14 correct?

15 A Uh-huh.

16 Q And that if you -- you're asked for your age or
17 date of birth, you will answer truthfully?

18 A Yeah.

19 Q Correct? And if asked to show identification,
20 you will present your valid personal identification,
21 correct?

22 A Yes.

23 Q On the night of this operation, did you have any
24 other identification with you other than the one that you
25 showed to the Department?

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1 A No. I only had my driver's license that I
2 showed them.

3 Q Okay. And I'm going to get into that. If you
4 will turn to Page 25, do you see that there?

5 A Uh-huh.

6 Q Okay. Other than -- you know, there's like a
7 white blackout mark, do you see that in the middle of the
8 page? Other than that, is this a fair and accurate copy
9 or depiction of your valid Hawaii driver's license that
10 you used that night?

11 A Yes.

12 Q Okay. And, in fact, do you still have this
13 license?

14 A Yeah.

15 Q It's not expired, correct?

16 A No.

17 Q And this is what you use to drive or when you go
18 traveling, I guess, you got to produce an ID, this is what
19 you use?

20 A Yeah.

21 Q And, let's see, I'll ask you to turn to Page 21
22 to 23, to look at that. There's four photographs. That's
23 you in the pictures, correct?

24 A Yeah.

25 Q And that was taken on September 23 in the

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1 afternoon the same night of the operation, correct?

2 A Yeah.

3 Q And that's the same clothes that you wore when
4 you went into Miso Phat Sushi?

5 A Uh-huh.

6 Q Yes? You have to say yes.

7 A Oh, yes. Sorry.

8 Q Okay. Yes or no, I should say. Okay. Okay.
9 So at some point, you head to Miso Phat Sushi in Kihei,
10 correct?

11 A Yes.

12 Q Can you explain what happened once you got
13 there, the process of events that occurred?

14 A I was seated at the sushi bar.

15 Q Okay. Wait. Let me back up there. Let me ask
16 you some questions first. Okay. So you drive down there,
17 correct? I mean, you're in a car with members of the
18 Department of Liquor Control, correct?

19 A Yeah.

20 Q That's how you got there?

21 A Yes.

22 Q You didn't drive yourself?

23 A No.

24 Q Okay. And so I guess you parked across the
25 street?

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1 A Yes. And it was one of the Fridays, like, you
2 know, where they have like the First Friday or something
3 like that.

4 Q Okay. So -- all right. And so you were
5 instructed to walk to Miso Phat Sushi from across the
6 street, correct?

7 A Yes.

8 Q Okay. And were you given the buy money at that
9 point?

10 A Yes.

11 Q So you got the buy money, you're walking over,
12 and is there anybody that meets you at the restaurant
13 prior to you going in?

14 A I guess just the officer.

15 Q Okay. And this is, what, one officer or two?

16 A No. I think it was only one officer with me.

17 Q Okay. So he went into the restaurant with you?

18 A He was -- it was pretty busy, so he was waiting
19 outside --

20 Q Okay.

21 A -- looking through the door.

22 Q So you went in by yourself, then, I guess?

23 A Yes.

24 Q Okay. And when you entered and -- do you
25 remember what time that was about?

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1 A No, not sure.

2 Q 8:49 p.m., does that sound about right? 8:49
3 p.m.?

4 A Yeah, I guess so.

5 Q Sounds about right?

6 A Yeah.

7 Q So you entered there, and what do you do once
8 you entered the restaurant?

9 A I had to wait to be seated.

10 Q Okay.

11 A And then there was a section at the sushi bar
12 cleared off for me and I was seated and told that the
13 waiter was going to come.

14 Q Okay.

15 A They gave me a menu. I looked over it a bit.
16 And then, I guess, the waiter came and asked me, I guess,
17 if I wanted to order anything. But I said, no, I was just
18 looking, if I can just order a Heineken. Then I waited
19 for a while for the drink. And he came over again to ask
20 if I want anything. I just said, "No, I just wanted a
21 drink right now." And then he like ran back to get the
22 drink, came back and asked for my ID. I gave him my ID,
23 and then he gave me the drink, I guess.

24 Q Okay. So after you gave him your -- and this is
25 the ID that's on Page 24 in the report in front of you,

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1 correct?

2 A Uh-huh.

3 Q Which is in a vertical format, right?

4 A Yes.

5 Q So after you handed that to him, about how long
6 did he take to, I guess, examine the ID?

7 A Maybe like 10 to 15 seconds.

8 Q Then he hands it back to you and serves you the
9 drink, correct?

10 A Yes.

11 Q Okay. After that happened, what did you do?

12 A Once I had the drink in my hand, I looked over
13 to the officer.

14 Q Where was he?

15 A He was sitting just opposite of the door, so I
16 could see him clearly. Then I motioned him to come in.

17 Q Okay. Then what happened after that?

18 A I believe he came over and I guess -- I think he
19 confirmed that he left the drink with me and then he told
20 me to go wait outside.

21 Q I want to direct your attention again, if you
22 look at the report in front of you, Page 19. Do you have
23 that?

24 A Yeah.

25 Q Okay. Does that look familiar to you?

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1 A Yes.

2 Q And what is that?

3 A It's the drink he poured for me.

4 Q Does that photograph fairly and accurately
5 represent or depict the drink that was poured for you and
6 served to you by the server at Miso Phat Sushi that night?

7 A Yes.

8 Q Prior to the server serving you the drink, did
9 he at any time ask you how old you were?

10 A No.

11 Q Did he at any time ask you if you were at least
12 21 years of age or older?

13 A No.

14 MR. HANANO: Thank you. I have no further
15 questions, Chair.

16 CHAIR FUJIII: Mr. Steadman, do you have any
17 questions for the witness before I ask the Board members?

18 MR. STEADMAN: I do. I don't really understand,
19 you know, maybe or I guess or um. It seems to me, first
20 testimony with Ms. Molina was the ID was checked for five
21 seconds. Now it seems to have changed to 10 to 15
22 seconds. There was a police officer that supposedly went
23 in first before the minor. That has now changed. So I
24 could direct my questions directly to the -- to the minor,
25 but I think it would be more of a question for the Board.

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1 CHAIR FUJII: Anything else?

2 MR. STEADMAN: That's it.

3 CHAIR FUJII: Okay. Questions by Members of the
4 Board? Ms. Akamine, there was -- in this testimony so
5 far, there was no mention of the money transaction. When
6 did that happen? Did you pay for it? Did the server pick
7 up the cash?

8 A No, no, he didn't.

9 CHAIR FUJII: So he just served you the -- your
10 order, so it was like he was going to run a tab or
11 something?

12 A Yeah.

13 CHAIR FUJII: Maybe that was the --

14 A Yes.

15 CHAIR FUJII: Did he ask you how you're gonna
16 pay it or anything along that nature?

17 A No.

18 CHAIR FUJII: If you --

19 A I think they were waiting for me to order sushi
20 or something --

21 CHAIR FUJII: Oh.

22 A -- like that, yeah.

23 CHAIR FUJII: Oh, there was -- he felt there
24 would be more items besides the drink that -- that you
25 were gonna be ordering sushi maybe?

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1 A Yes.

2 CHAIR FUJII: I see.

3 A Yeah.

4 CHAIR FUJII: Okay. Any other questions
5 directed to --

6 MEMBER HELM: Yeah, I have a question. So the
7 server looked at your ID?

8 A Yes.

9 MEMBER HELM: Then right after that, did that
10 server go and get your drink?

11 A No. He had the drink in his hand. He poured it
12 in the cup and then he asked for my ID.

13 MEMBER HELM: Okay.

14 A When he gave it back, he put the drink down and
15 then left.

16 MEMBER HELM: And he didn't say anything?

17 A He was asking for my ID and then he was like,
18 "Okay, that looks good," and he handed it back.

19 MEMBER HELM: Thank you.

20 CHAIR FUJII: Any other question directed to the
21 witness? Mr. Steadman, you have one more opportunity.

22 MR. STEADMAN: Yes, I do, to the -- to the
23 witness.

24 CROSS-EXAMINATION

25

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1 BY MR. STEADMAN:

2 Q Are you sure? This is what happens -- you know,
3 there's been a lot of I guess and um and not really sure,
4 so I just want to know if this is actual facts because the
5 story seems to have changed now.

6 CHAIR FUJII: That's your -- that's your --

7 MR. STEADMAN: That's my question to the
8 witness.

9 CHAIR FUJII: You know, that's your -- no -- as
10 far as -- we all have our ears, too, again. So you're
11 welcome to your statement there.

12 MR. STEADMAN: Okay.

13 CHAIR FUJII: No further questions, then? If
14 you don't want to direct any question, this is the last
15 opportunity for this witness.

16 MR. STEADMAN: Yes.

17 Q (By Mr. Steadman) I want to, you know, make
18 sure -- I want to make sure that he didn't ask you if you
19 were 21 or of age. Are you sure?

20 A Yes.

21 MR. STEADMAN: Okay.

22 CHAIR FUJII: Okay. No further questions?
23 Okay. You are dismissed. Thank you for coming,
24 Ms. Akamine. Mr. Hanano, you have --

25 MR. HANANO: Yes, Chair. Department would next

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1 be calling Liquor Control Officer Marc Weisenfeld.

2 CHAIR FUJII: Mr. Hanano, Meisental?

3 MR. HANANO: Weisenfeld.

4 CHAIR FUJII: Weisenfeld.

5 MR. HANANO: Weisenfeld.

6 CHAIR FUJII: Mr. Weisenfeld, would you take the
7 podium, step back up to the podium there?

8 Mr. Weisenfeld -- I'm over here -- I will be reciting the
9 oath, and I would like you to respond when I'm done.

10 Mr. Weisenfeld, do you solemnly swear or affirm that the
11 testimony that you are about to give before this Board in
12 connection with this case will be the truth, the whole
13 truth and nothing but the truth?

14 THE WITNESS: I do.

15 CHAIR FUJII: Thank you. Mr. Hanano.

16 MR. HANANO: Thank you, Chair.

17 MARC WEISENFELD,

18 was called as a witness on behalf of the Department; after
19 having been first placed under oath, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. HANANO:

22 Q Please state your name and occupation.

23 A My name is Marc Weisenfeld, I'm a Liquor Control
24 Officer II with Department of Liquor Control.

25 Q Were you so employed and on duty on September

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1 23rd, 2016, at about 3:30 p.m.?

2 A I was.

3 Q And what was your assignment on that date?

4 A I was assigned as a secondary investigator to
5 support the primary investigator Cielo Molina.

6 Q Okay. That was for minor decoy operations?

7 A It was.

8 Q All right. Later that evening, do you recall
9 assisting with a minor decoy operation involving a
10 licensee by the name of Miso Phat Sushi located at 1279
11 South Kihei Road?

12 A I do recall.

13 Q What was your role in this minor decoy operation
14 involving that licensee?

15 A Earlier in the evening, I had briefed the -- and
16 reviewed the checklist, the Minor Decoy Checklist with the
17 minor decoy. I clarified with her that she understood all
18 the rules and regulations and that she abided by the rules
19 pertaining to providing the truth, and, if she was asked
20 to state her age, she was to be truthful, and, if she was
21 asked to provide her identification, she was to provide
22 her current valid driver's license.

23 Q Okay. And that's, basically, what's contained
24 in the Minor -- what is called the Minor Decoy Checklist,
25 correct?

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1 A Yes.

2 Q And that's -- if you could look at that Exhibit
3 D-1 in front of you, on Page 26, the bottom there, with
4 the 26 with the circle around it. Recognize -- let me
5 know when you're there.

6 A Yes, I am.

7 Q Do you recognize what that is?

8 A Yes. This is the Minor Decoy Checklist.

9 Q Okay. Is that the exact or a copy -- fair and
10 accurate copy of the exact checklist that you went over
11 with minor decoy for this operation?

12 A It is indeed.

13 Q Okay. And that -- just for the record, the
14 minor was Taylor Akamine, correct?

15 A Correct.

16 Q And so you went over this checklist. And I
17 noticed there's initials and a checkmark. What does that
18 signify?

19 A We specifically went over each one of the rules
20 and have -- I asked the minor decoy if she had any
21 questions and if they were clear. And once they were,
22 when she agreed that they were, she initialed each one.

23 Q And then I see, at the bottom, there's also a
24 signature, correct?

25 A Right.

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1 Q There's two signatures, actually, one for
2 Ms. Akamine and one -- is that you on the bottom there, on
3 the right?

4 A Yes, it is.

5 Q Okay. So I guess 'cause you went over it and
6 you were a witness, so you signed that, correct?

7 A Right.

8 Q Okay. Is there anything else you did as far as
9 assist in the operation prior to going over to South Kihei
10 Road?

11 A No.

12 Q As far as with the minor, did you take any
13 photographs?

14 A Yes, I did. I'm sorry. I took photographs of
15 the minor decoy in addition to a photograph of her current
16 valid identification.

17 Q Okay. And that's -- if you could turn to -- let
18 me direct you to Pages 20 to 23, in the report.

19 A Yes.

20 Q Okay. So were you able to look at those?

21 A Yes. These are the photographs I obtained on --
22 on that evening.

23 Q So you took these?

24 A Yes, I did.

25 Q And this is how the minor not only appeared,

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1 but, basically, that's the exact same clothes that she
2 wore when she went into the Miso Phat Sushi establishment?

3 A It was.

4 Q Okay. And, again, if I could direct you to Page
5 24, did you -- what is that? This is a copy of the minor
6 decoy's current valid driver's license. I'm sorry.

7 Actually, maybe 25 would be a better one.

8 A 24 and 25.

9 Q Yeah.

10 A Yes.

11 Q Same thing, but I think one is --

12 A One is clearer, yeah.

13 Q So, again, I'm gonna ask you this, on Page 25,
14 is that a fair and accurate representation of the ID that
15 Ms. Akamine had on her when this minor decoy operation
16 involving Miso Phat Sushi was involved?

17 A Yes, it was.

18 MR. HANANO: Thank you. I have no further
19 questions, Chair.

20 CHAIR FUJII: Okay. Thank you, Mr. Hanano.
21 Mr. Steadman, I understand you have a problem with the
22 witness being there, and you're in front. When you want
23 to direct your questions to the witness, you may swing
24 your chair around or we could move things around. What is
25 your preference?

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1 MR. STEADMAN: I have no questions for the
2 witness.

3 CHAIR FUJII: You have no -- in the future, you
4 have a problem with your neck, you said, and if you need
5 to address any witnesses, you may swing around and address
6 them.

7 MR. STEADMAN: Thank you, Chair.

8 CHAIR FUJII: Okay. No questions by the
9 licensee. Any questions addressed to the witness by the
10 Board? No further questions, you are dismissed, sir.

11 A Okay. Thank you.

12 CHAIR FUJII: Thank you. And, Mr. Hanano, do
13 you have --

14 MR. HANANO: Yes. We have -- our last witness
15 would be Sergeant Eric Lee Correa with the Maui Police
16 Department.

17 CHAIR FUJII: Thank you. Sergeant Correa --
18 here. Sergeant Correa, I will be reading an oath that I
19 would like you to respond to when I'm done.

20 MR. CORREA: Okay.

21 CHAIR FUJII: Sergeant Correa, do you solemnly
22 swear or affirm that the testimony you are about to give
23 before this Board in connection with this case will be the
24 truth, the whole truth and nothing but the truth?

25 MR. CORREA: Yes, I do.

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1 CHAIR FUJII: Thank you. Mr. Hanano.

2 MR. HANANO: Thank you, Chair.

3 ERIC CORREA,

4 was called as a witness on behalf of the Department; after
5 having been first placed under oath, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. HANANO:

8 Q State your name and occupation for the record.

9 A Eric Lee Kalei Correa, Police Sergeant, Juvenile
10 Crime Prevention Division.

11 Q And how long have you -- this is with the Maui
12 Police Department, obviously, correct?

13 A Yes.

14 Q And how long have you been a police officer?

15 A 25 years.

16 Q Were you so employed and on duty on September
17 23rd, 2016, at about 8:40 p.m.?

18 A Yes, I was.

19 Q Do you remember what your assignment was on that
20 date and time?

21 A To assist with the Department of Liquor Control
22 with a minor decoy operation.

23 Q Okay. In particular, do you recall assisting
24 with that operation regarding an establishment located at
25 1279 South Kihei Road, in particular Miso Phat Sushi?

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1 A Yes, I do.

2 Q Can you explain, basically, your role as far as
3 the operation from when you got there?

4 A In this -- for this particular establishment, my
5 role was to monitor the minor decoy and to make sure the
6 establishment she was going into was safe before it was
7 entered.

8 Q Okay. And so did you, I guess, make some
9 preliminary observations as far as Miso Phat Sushi was
10 concerned?

11 A Yes.

12 Q And what were those?

13 A That night, I was -- I was dressed in plain
14 clothes, street attire. And I went to the door of the
15 establishment, I looked in. I'm not sure if I entered or
16 not. But you could clearly see the establishment was very
17 busy that night, crowded. There didn't appear to be
18 enough seating for myself and the minor in the
19 establishment. So I stayed outside, which is -- the
20 entire -- the entire interior of the establishment is --
21 is viewable through the glass front doors and windows,
22 which is -- covers from ceiling to floor.

23 Q Okay. So at some point, the minor decoy went --
24 and, for the record, the minor decoy was Taylor Akamine,
25 correct?

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1 A Yes.

2 Q And so at some point, the minor goes in. And
3 did you go in or not with her?

4 A I did not enter with her.

5 Q Okay. And where -- where did you -- where was
6 your position relative to where the minor decoy was?

7 A I was seated on a bench directly outside the
8 establishment, where you could see the entire interior of
9 the establishment.

10 Q All right. And what did you observe as far as
11 where the minor decoy sat in the establishment?

12 A She went and sat in about, approximately, the
13 fourth seat in from the door at the bar of the
14 establishment.

15 Q Okay. And did you have a clear view of the
16 minor decoy at that time?

17 A Yes.

18 Q So what did you observe as the minor decoy went
19 in and sat at this particular seat?

20 A She sat down and I observed her approached by
21 the server. And I saw her present her identification to
22 the server. And there was some verbal exchange, which I
23 couldn't hear. And then sometime later, a green bottle of
24 Heineken beer and a glass was provided to the minor.

25 Q Okay.

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1 A Then the server left that beverage with the
2 minor and walked away.

3 Q What did you do at that point?

4 A At that point, I was signaled by the minor that
5 she received the liquor and I went into the establishment
6 to secure the beverage and the glass container. And I
7 notified -- I asked to speak to the manager, but the
8 person I asked happened to be the manager. And asked -- I
9 mean, I notified them that they were -- they just served a
10 minor and asked them to go to the back and further discuss
11 it away from his patrons.

12 Q Okay. Did you eventually -- or were you able
13 eventually to identify who the server was?

14 A Yes.

15 Q What was his name?

16 A His last name is Park. I forgot his first name.
17 Robert Park.

18 Q Robert Park, okay. And, ultimately, did you
19 issue him any kind of citation?

20 A Yes, I did. I issued a criminal citation for
21 prohibited -- providing liquor to the minor.

22 Q All right. Let me back up a bit now. When
23 you -- when you saw this Mr. Park person, the server, look
24 at the minor decoy's identification, approximately how
25 long would you say Mr. Park took to examine the ID before

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1 handing it back to Ms. Taylor? Rough estimation. I mean,
2 was it like --

3 A Probably three to five seconds, if I had to
4 estimate.

5 Q Okay. And, eventually, did you -- were you able
6 to recover the glass of beer and the bottle?

7 A Yes.

8 Q Did you take any photos?

9 A Yes. I took a photograph of the items I
10 recovered.

11 Q All right. And that photograph, did you send it
12 to anybody as evidence?

13 A Yes.

14 Q Who was that?

15 A To the Liquor Control Officer Cielo Molina.

16 Q Okay. I'm going to refer you to Page 19. If
17 you could look at Exhibit D-1 in front of you, if you look
18 at Page 19, the numbers on the bottom with the circle
19 around it. Page 19. Do you recognize what that is?

20 A Yes, I do.

21 Q And what is that?

22 A That's the photograph I took of the items that I
23 took -- that I recovered from the minor while she was
24 seated at the bar.

25 Q So these are the -- this is what you saw was

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1 served to Ms. Akamine when she was seated at the bar,
2 correct?

3 A Yes.

4 Q Does this fairly and accurately represent what
5 you saw?

6 A Yes.

7 Q Okay. Now I'm going to ask you to turn to, same
8 Exhibit, D-1, Page 5 of the report there. See that? It
9 says "Statement of Police Officer Eric Correa?"

10 A Yes.

11 Q If I could direct your attention to the -- I
12 don't know -- second -- third paragraph from the bottom
13 where it says, "According to Officer Correa." Do you see
14 that part?

15 A Yes.

16 Q Okay. If you could read that and the next
17 paragraph right after that to yourself, I would like to
18 ask you some questions.

19 A Okay.

20 Q And just let me know by looking up when you're
21 done. Okay. So these statements here, this is according
22 to Liquor Control Officer Molina, all right, this is her
23 report, is that -- are those statements -- what's
24 contained in those statement, is it a fair and accurate
25 representation of your observations and what you

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1 witnessed?

2 A Yes.

3 Q So, in particular, I want to ask you about this
4 date. Right. It says, "According to Officer Correa, Park
5 claimed that he checked the minor's identification and
6 recalled the date of 05/16/17. Park repeated that date
7 numerous times, becoming irate and claiming that he also
8 asked if the minor was 21 years old, which he claimed that
9 the minor said 'yes.'" Okay. So this is, basically, what
10 you got from Mr. Park, correct?

11 A Yes.

12 Q Okay. Where did he get that 5-16-17 date from?
13 Did you provide that to him at all?

14 A No, I did not.

15 Q Did you give him -- like show him again the
16 minor identification?

17 A No, I did not.

18 Q He just came up with that on his own?

19 A First of all, regarding the minor's
20 identification, she had taken it with her --

21 Q Okay.

22 A -- and exited the establishment --

23 Q All right.

24 A -- prior to me asking for the manager. The date
25 on that identification, 5 -- this date appears on the

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1 identification as the date she turns 21 years of age.

2 Q Okay. So I guess my question is, did you at all
3 prompt him to come up with that date?

4 A No.

5 Q Okay. And you said he repeated it over and
6 over.

7 A Yes.

8 Q Is that correct? Okay. So at the time when he
9 was making these statements and repeating the date, he
10 didn't have the ID, correct?

11 A No.

12 Q And as far as you know, he only saw the ID that
13 one time when he examined it, correct?

14 A Correct.

15 Q Now, as far as Mr. Park's demeanor, you have
16 some statements in there. Can you describe that for us?

17 A He was visibly upset. He appears to be a person
18 who tries to, you know, do the right thing, but he was
19 upset, I guess, at us initially catching him in this. And
20 he grew louder, more aggravated, and he started demanding
21 to confront the minor, "I want to talk to her, I want to
22 see the video." I remember him saying that. He asked
23 to -- to see the ID again, examine the identification
24 because he specifically remembered the date 5-16-17,
25 5-16-17, which --

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1 Q Well, that wasn't provided to him, though?

2 A That -- yeah, I didn't provide it to him.

3 Q You didn't?

4 A No, I didn't.

5 Q Okay.

6 A So I didn't know where he got that date from
7 initially. Later on, I went out and I looked at her
8 identification again and discovered that, on the
9 identification, is -- the date is provided in a vertical
10 identification indicating the person is under the age of
11 21 until that date.

12 Q Okay. And so, ultimately, you issued Mr. Park a
13 citation?

14 A Yes.

15 Q Did you have to go to testify in that case?

16 A I did not.

17 Q So there was no trial, as far as you know?

18 A As far as I know, no, there was no trial.

19 MR. HANANO: Thank you. I have no further --
20 oh, one last one.

21 Q (By Mr. Hanano) Did everything you testify to
22 occur in the County of Maui, State of Hawaii?

23 A Yes, it did.

24 MR. HANANO: No further questions, Chair.

25 CHAIR FUJII: Okay. Thank you. Mr. Steadman,

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1 your witness. You have questions?

2 CROSS-EXAMINATION

3 BY MR. STEADMAN:

4 Q Yes, Sergeant. I just want to know who was
5 there to -- to witness or hear any of the verbiage that
6 went between about the -- him asking the age and her
7 saying yes or no?

8 A Who was there from our crew?

9 Q Right. Like --

10 A No one was there.

11 MR. STEADMAN: Okay. Thank you. That's all,
12 Your Honor -- I mean Chair. Your Honor?

13 CHAIR FUJII: I'll take whatever. I think
14 that's a promotion.

15 MR. STEADMAN: You deserve it.

16 CHAIR FUJII: I gotta get a black rope already.
17 I'm gonna order one. Board Members, questions for the
18 witness, anyone? If not, Sergeant Correa -- oh, one
19 question. Hold on.

20 MR. KUSHI: Mr. Correa, what's the status of
21 that criminal citation?

22 A He was convicted, he pled -- he pled guilty.

23 MR. KUSHI: He did?

24 A Yes, he pled out. I don't know if it was guilty
25 or no contest, but he was found guilty.

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1 MR. KUSHI: The case, it's been disposed of?

2 A Yes. It's done.

3 CHAIR FUJII: Okay. No further questions,
4 Sergeant Correa, thank you for coming.

5 A Thank you.

6 CHAIR FUJII: Mr. Hanano, any further witnesses?

7 MR. HANANO: No further witnesses. The only
8 thing is the State would move to admit State's --
9 Department Exhibit D-2.

10 CHAIR FUJII: Any problems with that,
11 Mr. Steadman?

12 MR. STEADMAN: No problem.

13 MR. KUSHI: D-2 or D-1?

14 MR. HANANO: D-2.

15 MR. KUSHI: Mr. Steadman, have you seen this?

16 MR. STEADMAN: I have not.

17 CHAIR FUJII: Sarah will get Mr. Steadman one,
18 yeah.

19 MR. HANANO: I'll show him a copy, actually, the
20 original.

21 CHAIR FUJII: Mr. Hanano, you want to make a
22 statement regarding D-2?

23 MR. HANANO: No. Other than the fact that we
24 move to admit -- this is a order from a court regarding
25 Mr. Park's citation in the matter.

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1 CHAIR FUJII: And I think Mr. Kushi asked
2 whether this was resolved.

3 MR. HANANO: Yeah, this is --

4 CHAIR FUJII: Already --

5 MR. HANANO: This is the court document to
6 answer his question, basically.

7 CHAIR FUJII: Okay.

8 MR. KUSHI: Mr. Chair, question. On the second
9 page of Exhibit D-2, what is this motion for dismissal
10 after DNC? What's that about?

11 MR. HANANO: I think in this case he got a
12 deferral.

13 MR. KUSHI: Deferred?

14 MR. HANANO: Yeah. So it was like a deferred
15 acceptance of no contest plea, basically what it is. So I
16 think that, still, the status is still pending. According
17 to this, he has to return July 27th. On July 27th, 2017,
18 if -- you know, my understanding is if there's no -- if he
19 meets with the conditions of the deferral that were
20 imposed on him, then the case will be -- the matter will
21 be dismissed.

22 CHAIR FUJII: So, again, Mr. Hanano, no further
23 witness, or do you have any more?

24 MR. HANANO: No further witnesses or evidence.
25 We would rest at this point. However, we will also ask

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1 that Exhibit D-1 be sealed because of the nature of the
2 information contained in the report.

3 CHAIR FUJII: Sealed meaning we return it to
4 you?

5 MR. HANANO: No. Meaning that if anyone tries
6 to request it, that it not be --

7 CHAIR FUJII: Distributed.

8 MR. HANANO: -- disseminated from the general
9 public.

10 MR. KUSHI: Except for the parties.

11 MR. HANANO: Except for the parties, correct.

12 MR. KUSHI: And the information is like the
13 address, birthdates?

14 MR. HANANO: Right. Right. Correct.

15 MR. KUSHI: Phone numbers of the parties.

16 CHAIR FUJII: There's a lot of private
17 information there.

18 MR. HANANO: Yeah.

19 CHAIR FUJII: Personal information.

20 MR. HANANO: Yes, Chair.

21 MR. KUSHI: Mr. Steadman, do you have any
22 objection to the admission of evidence D-1 or D-2?

23 MR. STEADMAN: I do not.

24 MR. HANANO: Also, Chair, the Department would
25 like to ask Chair to have the licensee identify the other

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1 party sitting at the table.

2 CHAIR FUJII: Okay. Mr. Steadman, if you would
3 identify who is with you there.

4 MR. STEADMAN: This is my --

5 MS. STEADMAN: Joy Steadman, Vice President,
6 Miso Crazy Sushi, LLC dba Miso Phat Sushi.

7 CHAIR FUJII: And Ms. Steadman, is it a relation
8 to you, sir? Daughter?

9 MR. STEADMAN: Ex -- ex-wife.

10 CHAIR FUJII: There is a relationship there.

11 MR. STEADMAN: Yeah. We're great friends.
12 Great friends, though.

13 CHAIR FUJII: Well, that's good.

14 MR. KUSHI: So if she does -- would she be
15 testifying?

16 CHAIR FUJII: I believe we want --

17 MS. STEADMAN: I'm not testifying, no.

18 MR. STEADMAN: Not testifying.

19 CHAIR FUJII: Yeah.

20 MR. STEADMAN: Moral support.

21 CHAIR FUJII: We already -- already into the
22 middle of the --

23 MS. STEADMAN: Yeah, not testifying. No, not
24 testify.

25 CHAIR FUJII: -- hearing and she's been sitting

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1 here.

2 MS. STEADMAN: No.

3 CHAIR FUJII: It wouldn't be fair. Okay. If no
4 further witnesses, Mr. Hanano, then we'll move on to the
5 licensee.

6 MR. HANANO: Yes, Chair.

7 CHAIR FUJII: And -- yeah, I think some people
8 are ready for a short break, 10-minute break. Would that
9 be okay with everybody? Someone make a motion.

10 MEMBER ARIAGA: So motion.

11 CHAIR FUJII: We're going to have a 10-minute
12 break.

13 MR. STEADMAN: Okay. Thank you.

14 (Recess, 11:24 a.m. to 11:34 a.m.)

15 CHAIR FUJII: The Board is now back in open
16 session. Just to keep the record straight, Mr. U`u has
17 been excused for this portion of the meeting. And while
18 we go on record that the new Board Member, Jason Williams,
19 who was supposed to be here today is excused for today's
20 hearing. So we will have a full board at the next
21 meeting. So we will continue with our final case for
22 today.

23 And, Mr. Steadman, at this time you can make a
24 statement or direct -- bring in a witness on your behalf.

25 MR. STEADMAN: Yeah, I'd just like to make a

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1 statement.

2 CHAIR FUJII: Statement, we'll allow that.

3 MR. STEADMAN: Okay. The minor witness had a
4 complete different set --

5 CHAIR FUJII: Let's not get to that. Okay.
6 Just bring in your witness.

7 MR. STEADMAN: Okay.

8 MR. KUSHI: If he is going to testify, he needs
9 to be sworn in.

10 CHAIR FUJII: Yeah. That sounds like testimony.
11 And we'll have to swear you in.

12 MR. STEADMAN: Okay.

13 CHAIR FUJII: Let's stick with the witness.
14 Call your witness.

15 MR. STEADMAN: Okay.

16 CHAIR FUJII: No, no. She will --

17 MS. CORDEIRO: Say it into the record and we'll
18 get him.

19 MR. STEADMAN: That's Robert Hume Park.

20 CHAIR FUJII: Okay, she'll get it. Mr. Park --

21 MR. PARK: Yes, sir.

22 CHAIR FUJII: -- I will be issuing a oath and I
23 would like you to respond to the oath. Mr. Park, do you
24 solemnly swear or affirm that the testimony you are about
25 to give before this Board in connection with this case

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1 will be the truth, the whole truth and nothing but the
2 truth?

3 MR. PARK: Yes, sir.

4 CHAIR FUJIII: Thank you. Mr. Steadman, your
5 witness.

6 ROBERT HUME PARK,
7 was called as a witness on behalf of the Respondent; after
8 having been first placed under oath, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. STEADMAN:

11 Q Yes, in your opinion, we would like to know what
12 happened.

13 A What --

14 Q What took place, what transpired with the minor
15 sting operation --

16 A Okay.

17 Q -- you were involved in.

18 A Yeah. Yeah. We were really busy, so there was
19 only maybe like a seat or two at the bar, sushi bar. And
20 young lady comes and sits down. And, naturally, I go up
21 and welcome, ask if they have been to the restaurant and
22 then ask, you know, could I get you started with something
23 to drink, whether it be, you know, an alcoholic or
24 nonalcoholic beverage. She requested a Heineken. So I
25 asked, "You are at least 21, yes?" Because I ask every --

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1 everybody that, you know, just as a starter. And she
2 goes, "Yes." And I go, "Well, let me see your ID." And
3 so she grabs her ID, hands it to me, and I look at it, it
4 says 5-16-95, is what I saw. So whenever I did the math,
5 I said, okay, 21, so I sit down. And then I got really
6 busy doing some other stuff and I for -- actually forgot
7 her -- what she ordered. So I went back and go, "What did
8 you get, again?" She goes, "Heineken." I go, "Okay, I
9 got it, I'll be right back." So then I went and grabbed
10 it, but it was like, you know, the (inaudible), but I did
11 ask her if she was 21, I asked her for her ID. And I
12 could have sworn it said 5-16-95. Come to find out, it
13 was '96. But I do have, you know, a slight case of
14 dyslexia that people have brought to my attention in the
15 past, looking at numbers and things.

16 CHAIR FUJII: Go ahead. Anything else you would
17 like to direct to your witness?

18 Q (By Mr. Steadman) In your observation, was she
19 accompanied by anyone or just by herself?

20 A No. She was by herself, that I could see. I
21 mean, I knew everybody else that had been sitting there, I
22 had been taking care of, because I was the only server on
23 that night. So when she came and sat, she was by herself.

24 Q Did you recognize any of the officers who wrote
25 you a citation in street clothes afterwards?

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1 A No. No. I mean, I recognize the one that
2 taught the class up here and gave us -- administered the
3 test for our -- when she came in later on, but nobody that
4 was in there earlier.

5 Q And you took his class?

6 A Her class.

7 Q Her class?

8 A Uh-huh.

9 MR. STEADMAN: That's all I have for the
10 witness.

11 CHAIR FUJII: Mr. Hanano, you have an
12 opportunity to --

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

14 CHAIR FUJII: -- direct your questions.

15 CROSS-EXAMINATION

16 BY MR. HANANO:

17 Q Good morning, Mr. Park. Or is it good
18 afternoon?

19 A Getting close.

20 Q Okay. So you said that you have a slight form
21 of dyslexia, correct?

22 A Yes, sir. I mean, it's been pointed out to me
23 when I'm reading or -- or saying, you know, back numbers
24 that I'll --

25 Q Okay.

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1 A -- say 'em in a mixed up order.

2 Q All right.

3 A Which I don't know if that played a -- you know,
4 I'm just -- 'cause --

5 Q So how long have you been in the, I guess,
6 liquor industry, I should say?

7 A Since I was probably about 20.

8 Q 20?

9 A So I would say, you know, 18, 19 years, I've
10 been a bartender, server, you know, assistant food and
11 beverage director. And I've never once had an infraction,
12 you know. I mean, it's just -- it goes against everything
13 that I believe. You know, I try to do things the right
14 way. That's the way I was raised, you know.

15 Q Okay. And during that time that -- what you
16 say, 20 years?

17 A Yeah, close to it.

18 Q 20 years in the industry, obviously you gotta
19 check IDs, right?

20 A All the time. I've taken the state classes in
21 Texas, Tennessee, Kentucky, all over, you know, same --
22 basically, the same material, just different versions.

23 Q Okay. And you said this is the first time that
24 something like this has happened where you sold liquor to
25 an underage person?

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1 A Ever. Absolutely.

2 Q All right. Now, this -- okay. So you're not
3 disputing that this person was a minor, correct?

4 A Not now, no. Not at all.

5 Q You're not disputing that the identification
6 that she gave you was a valid ID which showed that she was
7 under 21, correct?

8 A Yes, sir.

9 Q Okay. And you're not disputing that what you
10 served was liquor, right?

11 A Yes, sir. No.

12 Q So let me ask you some questions about this
13 dyslexia.

14 A Yes, sir.

15 Q Does that -- I mean, can you just give me some
16 idea of how that affects your ability to process
17 information? I mean, you said that -- I mean, not to
18 interrupt you, but you said that when you -- in your --
19 and it's consistent with the report that you gave to -- I
20 mean the statement that you gave to the Liquor Control
21 Officer, is that you thought you saw 5-16-95 when it
22 really was 5-16-96, correct?

23 A Yes, sir.

24 Q So this dyslexia, does that like change a six
25 into a five or a seven into a, you know --

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1 A It doesn't necessarily change the number.

2 Q Right.

3 A You know, I've just noticed where like if
4 somebody says a number to me, I'll recite it in a
5 different pattern, you know, back. Like if somebody gives
6 me their phone number, you know, I'll get the pattern
7 messed up, you know.

8 Q Okay. I -- I can understand that. Like -- like
9 in this case, instead of 95, it would be 59?

10 A Yeah, potentially, you know. Or, you know,
11 like -- I don't know. Just sometimes it's not -- I don't
12 know. You know, I haven't really gone and got officially
13 diagnosed. It's just been brought to my attention from
14 friends and from people that, man, you must be dyslexic
15 because the way you wrote it down in a different order,
16 you know.

17 Q Okay. All right. So there's no like official
18 diagnosis or anything?

19 A I haven't -- I haven't really gone and got
20 officially diagnosed.

21 Q And -- and so you're not sure if that was the
22 situation in this case?

23 A It's just a possible guess because when I -- for
24 my eye, I read 95. That's all I know.

25 Q And that was a busy -- it was a busy night,

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1 right?

2 A Yeah, it was busy. Yeah, yeah.

3 Q Okay. And when you looked at the ID at that
4 time, you could see that it was in the vertical format,
5 right?

6 A Yes, sir.

7 Q And the dyslexia doesn't --

8 A No, no.

9 Q -- horizontal?

10 A Absolutely. And, you know, I -- I -- I did the
11 date, you know, I said '95, and I said, okay, you know.
12 And then thought, okay, '95, you know. And, I mean, I --
13 I even went over it twice in my head, you know, three
14 times, you know, thinking, because I -- the verticals, you
15 don't -- I don't get very often. I really wish they
16 weren't valid, like you -- you know, like I wish they
17 were -- you have a vertical, you can't get liquor, you
18 know.

19 Q I agree, but --

20 A I know that's not the law right now.

21 Q Anyway.

22 A Yeah, yeah.

23 Q So -- okay. So there's no dispute that it
24 was -- and -- and you received training, right --

25 A Yes, sir.

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1 Q -- from the Liquor Department that once you see
2 that, it's a red flag already?

3 A Sure.

4 Q Right.

5 A Pay special attention. Yes, sir.

6 Q All right. And you're also aware that -- based
7 on your training that those vertical IDs actually have a
8 date at which the person would turn 21, correct?

9 A Yes. Yeah, yeah, yeah, yeah. They do.

10 Q And -- and you would agree -- agree with me that
11 you told Officer Correa 5-16-17, you kept repeating that
12 date?

13 A I don't know what I -- I -- I think I said the
14 wrong date first and then I was like 5-16 -- I don't know.

15 Q Okay.

16 A Yeah.

17 Q But you remember saying a date to him?

18 A I -- I said something wrong. And he goes, what
19 -- what -- and I said, no, I meant to say. I don't know.
20 I was, you know --

21 Q Do you remember repeating a date over and over
22 to him, to Officer Correa?

23 A I remember saying -- I remember saying the wrong
24 day -- incorrectly first, like 5-16, you know, '17. I
25 don't know what I was thinking. Then I was like I

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1 meant -- you know, I don't know.

2 Q Okay.

3 A Yeah, yeah.

4 Q So you repeated some date to him?

5 A Yeah, yeah, yeah. I was kind of -- you know, I
6 was busy and I was in a -- you know, I was a little bit of
7 a surprise, to say the at least, that that had happened.

8 Q Okay. I gotcha.

9 MR. HANANO: No further questions, Mr. Chair.

10 CHAIR FUJIII: Okay. Questions by Board Members
11 to the -- for the witness? Anyone? Mr. Park, I think --
12 I mean, I don't have a minor's license, but it says the
13 date when the person is 21. And I think that's the '17,
14 the year '17 -- well, 5-16-17, whatever it was, the person
15 would be 21 this year, May --

16 A Yes, sir.

17 CHAIR FUJIII: -- this year. Did that trigger
18 off anything to you, that the number, the year --

19 A Honestly --

20 CHAIR FUJIII: -- 17 -- 2017 would appear on the
21 license?

22 A I guess it did. Honestly, I did -- I only pay
23 attention to the birthdate, it's just the way I've always
24 been trained. Because in, I guess, other places I've
25 lived maybe didn't have that, you know, didn't have the

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1 turn 21 on this date. So I always just look at the
2 birthdate, you know. And sometimes you get Canadian IDs,
3 whatever other IDs, that don't necessarily have that turn
4 21. So I've always just concentrated birthdate,
5 birthdate, you know. I don't know where the '17 came
6 from. I don't know. But, obviously, if I had seen that,
7 I can guarantee you I would not have sold it to her, I
8 guarantee. I mean, I've been doing it for 20 years, you
9 know. There was nothing intentional. Why would I put my
10 reputation at stake for -- for one beer, you know? It was
11 a terrible error and I feel bad about it, you know, very
12 bad about it. But I can't take it back, you know.

13 CHAIR FUJII: Yeah. So I think that's a key
14 number, that all the servers to look at the -- the year
15 the person comes, you know, age 21. And you're supposed
16 to know that current day, the day that --

17 A Yes, yes.

18 CHAIR FUJII: -- you were working, the year that
19 you're --

20 A Yeah, yeah.

21 CHAIR FUJII: -- working in, whatever it might
22 be.

23 A Yeah.

24 CHAIR FUJII: So, again, we advise, you know,
25 the servers and the licensees that you can't be more clear

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1 than that, with the date on that.

2 A Yes.

3 CHAIR FUJII: To let you know this person isn't
4 21 because it's still not May of whatever year it might
5 be.

6 A Yes, sir.

7 CHAIR FUJII: So just since you're here --

8 A I didn't look at that date, to be honest. I did
9 know it was on there, but there's so much information on
10 there that, you know, I just tend to focus on just the
11 birthday itself.

12 CHAIR FUJII: The most important date is the
13 date that they 21.

14 A Yeah. Well, yeah, yeah, obviously. No, it's
15 something that I will definitely always look at.

16 CHAIR FUJII: This isn't meant to lecture. It's
17 just --

18 A No.

19 CHAIR FUJII: -- to help --

20 A Of course.

21 CHAIR FUJII: The people that come up here, you
22 know, before us that that's the key number that you should
23 look at.

24 MEMBER HELM: I have a question.

25 CHAIR FUJII: Go ahead.

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1 MEMBER HELM: Mr. Park --

2 A Yes, sir.

3 MEMBER HELM: -- how many servers were there at
4 the time?

5 A It was just myself and one cashier/manager up
6 front.

7 MEMBER HELM: And you have a bartender, too?

8 A No.

9 MEMBER HELM: Oh, you have to --

10 A We just do beer, wine, saki. So I'm kind of
11 doing it all, you know, at that -- we're kind of multi.

12 MEMBER HELM: -- doing dual work then? And what
13 is the capacity of this restaurant?

14 A About 30.

15 MEMBER HELM: So pretty small.

16 A It's not very big. But, you know, it was -- it
17 was a Fourth Friday, which generally we're not very busy,
18 and then, all of a sudden, it like -- you know, at that
19 time it just, you know, hit, you know. So, you know, was
20 I rushing around? Yes, absolutely. Did I make a mistake?
21 Perhaps, because I was busy, there's a very good
22 possibility of that.

23 MEMBER UEOKA: Did you receive any on-the-job
24 training from your employer?

25 A Yes, ma'am. Well, I mean, we obviously do the

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1 Liquor Commission and all that stuff, but then we also
2 have books. And -- and we have the Liquor Commission
3 packet there, you know, the binder. And then we also have
4 books that tell you, you know, what to look for with
5 different IDs, different states, different countries.

6 MEMBER UEOKA: How long have you worked there?

7 A At this location, a year and-a-half now or so.
8 Yes, ma'am.

9 MEMBER UEOKA: In Hawaii, how long?

10 A Oh, two and-a-half years now.

11 MEMBER UEOKA: Okay. So you're familiar with
12 the Hawaii driver's license?

13 A Yes, ma'am. But I had not gotten a liquor card
14 until I came to work for them because, at my other jobs,
15 they always said as long as the manager has the card,
16 everybody else doesn't need, you know. So this was the
17 first place that said everybody is getting one. So, you
18 know, I applaud them for that, for sure. Obviously, it
19 didn't help me out, but --

20 MEMBER UEOKA: So although the resources were
21 available at your place of employment, was there ever like
22 a physical training or review of rules or things?

23 A Yeah. I mean, we -- we sat and we -- we went
24 over the book, you know, together at times, the binder
25 that you guys give us, yeah, you know. We -- especially

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1 during slow times, when we first opened, there were plenty
2 of those, so we would sit there and go over the laws and,
3 you know, whatnot.

4 MEMBER UEOKA: Thank you.

5 A Yes, ma'am.

6 CHAIR FUJIII: Any further questions by Members
7 of the Board for the witness? If not, we'll excuse you,
8 sir, Mr. Park. I think -- unless, Mr. Hanano, your
9 rebuttal to evidence, you'd like a witness there.

10 MR. HANANO: No. I have no further --

11 CHAIR FUJIII: Thank you for coming.

12 A Thank you for your time.

13 CHAIR FUJIII: Okay. At this point, we will have
14 the -- and, also, Mr. Steadman, you'll have an opportunity
15 to have rebuttal to what is happening so far. We'll start
16 with the Prosecutor.

17 MR. KUSHI: Wait. Do you have any other
18 witnesses?

19 MR. STEADMAN: I do not.

20 MR. KUSHI: Do you want to testify yourself?

21 MR. STEADMAN: I wasn't present that day, but,
22 you know, I have what I have to say. So --

23 MR. KUSHI: Could you hold that until your
24 closing statement?

25 MR. STEADMAN: Yes.

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1 MR. KUSHI: Okay.

2 CHAIR FUJII: Okay. No rebuttal, so, again,
3 Mr. Hanano, we'll take your rebuttal.

4 MR. KUSHI: We're at closing statements.

5 MR. HANANO: Closing statements.

6 CHAIR FUJII: Closing statement, okay.

7 MR. HANANO: Thank you, Chair.

8 So as the Board can see, there's two counts on
9 the calendar today, one is for sell, serve, furnish liquor
10 to a minor, and the other one is failed to properly check
11 the identification of a minor.

12 And I'll start with Count 2 because I think
13 that's -- Count 2 leads to Count 1, basically. And you
14 heard Mr. Park testify that he messed up, you know,
15 whether or not it was dyslexia. It doesn't sound like it,
16 there's no medical diagnosis of it. He's been doing this
17 for 20 years, this the first time it happened. Sounds
18 like it was a busy night, you know, he was kind of
19 rushing. So this is what happens, you know, if you don't
20 properly check the ID.

21 All you got to do -- in fact, you don't have to
22 do any math. Right? As the Board knows, all you do is
23 look at the ID, look at the date they turn 21, that's it,
24 no math. All you got to figure out is what today's date
25 is, look at that date and, boom, you know, you got your

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1 answer. So there's no math. There's -- you know, it's in
2 the vertical format. That should already give you an
3 idea, you know, an alert, which, you know, he agrees. And
4 he got training on it.

5 And so I think, Count 2, that should be guilty.

6 As far as Count 1, you know, they don't contest
7 that, either. I mean, the question is -- you know, it
8 sounds like the allegation is that the minor lied, she
9 said her -- she was over 21 when she wasn't. First of
10 all, the Department disputes that. We do not in any way
11 concede that the minor misrepresented her age to the
12 server. All the evidence we have of that is Mr. Park's
13 statement.

14 We have, you know, evidence to the contrary
15 showing that the minor signed and was explained, in the
16 Minor Decoy Checklist, that you're to answer truthfully
17 and that, you know, when you're asked your age, answer
18 truthfully, when you're asked to produce the ID, produce
19 your ID. And why would she misrepresent her age when she
20 knows that she has the ID which would dispute that? That
21 doesn't make sense.

22 So, you know, you're the finders of fact. You
23 know, you're like the jury or the judge in a court case,
24 you know, you decide what the facts are. So you cannot
25 believe Mr. Park's statement with respect to that portion

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1 where he says she said -- she said she was over 21. You
2 know, you're the finders of fact, you decide what's --
3 what the facts are and what's not. So you decide,
4 basically, who is credible who is not. We're asking you
5 to find Mr. Park on that portion not credible. And, you
6 know, obviously, Ms. Akamine disputed that, that she said
7 that she was over 21.

8 So based on that, we will be asking that you
9 find licensee guilty on Count 1 as well. Thank you.

10 CHAIR FUJII: Thank you. Thank you, Mr. Hanano.
11 Mr. Steadman, you have a opportunity for final argument.

12 MR. STEADMAN: Yes. To talk about that
13 statement there, I believe, with the way the story was
14 told by the minor witness and the Sergeant how the stories
15 had completely flip-flopped and changed from someone --
16 from her statement of that she had the beer in a glass and
17 then she got carded, when an officer of the law comes in
18 here, witnessing from outside, says it backwards. So I
19 don't know.

20 I understand Mr. Park is very, very busy, but --
21 and -- and especially without proof of what was said, it's
22 he said against she said. There's no one to back up that
23 statement. There's no listening devices. There's no
24 photos of her even being in the -- in the sushi bar or --
25 or microphones.

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1 I believe that she could be, you know, very,
2 very nervous, but there's just too much conflict of -- of
3 time. She said that she was carded 10 to 15 seconds, and
4 the officer of the law stated that he saw three to five
5 seconds. So there's a lot of going back and forth there
6 that -- and as far as I'm concerned, as a 20-year-old, I
7 wouldn't give her any credibility whatsoever, in my
8 opinion. You know, I think she got nervous and then the
9 story started flip-flopping about what happened.

10 On the other count, I believe that Mr. Park did
11 make a mistake. He admitted to that, you know. And he's
12 sorry for that. We're sorry for that. You know, we try
13 to provide as much training and -- and knowledge as we
14 possibly can and take this very serious.

15 So that's where I'm at.

16 CHAIR FUJII: Thank you. Mr. Hanano, Director's
17 final argument in rebuttal to what has been said.

18 MR. HANANO: Only that it sounds like they're
19 saying like they were entrapped into selling the liquor to
20 the minor by virtue of the fact the minor allegedly
21 misrepresented her age. And if they are -- if that's what
22 the defense is, then, you know, the rules provide that
23 they got to prove -- it's their burden to prove that to
24 the satisfaction of the Board. And all we have is, like I
25 said earlier, a self-serving statement by the server that

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1 she said she was 21.

2 But even -- even with that, let's assume for the
3 sake of argument that she did say she's 21. She gave him
4 the ID. And he admitted that he -- you know, it was busy.
5 So I think what probably happened was, it was busy, he was
6 in a hurry, you know, and he just looked at it, okay, here
7 is your beer.

8 And the other thing is, you know, they brought
9 up this issue about how long the ID was looked at. I
10 mean, Ms. Akamine stated 10 to 15 seconds, like -- like I
11 said. Now if she was gonna lie about her age and come in
12 here and lie to you guys about that, why would she give
13 them the benefit of the doubt of having the guy check the
14 ID longer than, you know, five seconds? I mean, if she
15 really wanted to go after them, she should have just said
16 he checked it for two to three seconds, but she gave them
17 longer, a longer period of time than Officer Correa
18 testified to. You know, there's gonna be differences in
19 estimations of time. I mean, this is not, by any stretch
20 of the imagination, a long period of time difference. One
21 says, what, five, the other says 15, so we got a, what,
22 10-second variation. But my point is if Ms. Akamine was
23 going to lie and, you know, come here in front of you and
24 misrepresent, you know, why would she give them the
25 benefit of the doubt by saying that the server checked it

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1 for a longer period of time? And I think if she was gonna
2 do that, she would say, oh, he checked it for two seconds,
3 which makes it look bad for them, worse for them, rather
4 than giving him the benefit of the doubt of, oh, he
5 checked it for 15 seconds.

6 But the bottom line is, he didn't check it
7 properly. There's no dispute that she was under 21, she
8 was served. And that's all that matters, really. I mean,
9 because they haven't proven an entrapment defense to -- to
10 the benefit of the law. So we'll be asking that you find
11 the licensee guilty of Count 1 and 2.

12 CHAIR FUJII: Thank you, Mr. Hanano. Is there
13 any other business relating to this case that needs to be
14 taken care of? If not, I would like -- the Board will
15 take all matters into consideration. So will everyone
16 please wait outside? We'll entertain a motion to go into
17 deliberation.

18 MEMBER ARIAGA: Motion for deliberation.

19 MEMBER HELM: Second.

20 CHAIR FUJII: Okay, moved and seconded. All in
21 favor of the motion, say "aye."

22 (Response.)

23 CHAIR FUJII: Motion carried.

24 (Recess, 11:58 a.m to 12:40 p.m.)

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

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1 Let's see. Here we go. Mr. Steadman.

2 MR. STEADMAN: Yes, sir.

3 CHAIR FUJII: The Board has found the
4 Respondent, in this case yourself as the licensee, guilty
5 of the charges on Count 1 and Count 2. So, Mr. Steadman,
6 we offer you this opportunity to respond to an argument as
7 to the penalty. We have found -- okay. First of all, I
8 think I got it in reverse order. Mr. Hanano, now that the
9 Board has found the Respondent guilty on Counts 1 and 2,
10 would you care to provide an argument as to penalty?

11 MR. HANANO: Yes, Chair. Thank you. License
12 for this licensee was issued back in July of 2016. There
13 are no violations whatsoever for this licensee. Based on
14 that, we will be asking, in Count 1, a \$2,000 fine,
15 suspend 1,000 on the condition that there's no further
16 convictions for a one-year period. In Count 2, we will be
17 recommending a \$500 fine.

18 CHAIR FUJII: Thank you, Mr. Hanano.
19 Mr. Steadman, you have an opportunity to respond to his --
20 your argument as to the penalty and reasons behind it, if
21 you have any.

22 MR. STEADMAN: I have no reasons and accept the
23 penalties.

24 CHAIR FUJII: You will accept the penalties --

25 MR. STEADMAN: Yes.

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1 CHAIR FUJII: -- as provided -- ah, the
2 Prosecutors?

3 MR. STEADMAN: Yes.

4 CHAIR FUJII: It's the Board's decision
5 finally -- final decision will be made by the Board.

6 MR. STEADMAN: Yes, I understand.

7 CHAIR FUJII: Okay. So we're at this phase here
8 now that we will go into another deliberation and decide
9 whether we're gonna accept the Prosecutor's recommendation
10 again. So we'll call you back later.

11 MR. STEADMAN: Okay. Thank you.

12 (Recess, 12:42 p.m. to 12:50 p.m.)

13 CHAIR FUJII: Back in open session.

14 Mr. Steadman, after reviewing all what was said at this
15 hearing here, the Board came to a decision. On Count 1,
16 the penalty will be \$2,000 of which \$1,000 will be
17 suspended provided there is no reoccurrence for the same
18 violation within a period of one year.

19 MR. STEADMAN: Okay.

20 CHAIR FUJII: On Count 2, the Board will -- is
21 following the recommendation of the Prosecutor, the
22 penalty for Count 2 is \$500. And the Board, you know,
23 would like -- some Members of the Board would like to make
24 a statement. Gwen, we'll start with you.

25 MEMBER UEOKA: I would like you to consider very

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1 strongly to have some kind of in-house training more
2 formally than having just the literature available to
3 people. But maybe, on a quarterly basis, actually have a
4 meeting and have people document that they were trained
5 again to protect the liability of your own company.

6 MR. STEADMAN: Right. Yes.

7 CHAIR FUJII: Okay. I think, Zach, did you have
8 a statement you would like to make?

9 MEMBER HELM: No. I -- you know, I mean, you're
10 new at this, I guess. How -- how long have you been -- a
11 year and-a-half or two?

12 MR. STEADMAN: For the liquor?

13 MS. STEADMAN: Yeah.

14 MEMBER HELM: For this liquor. So, you know,
15 just -- you know, just be more focused on your employees,
16 employee -- yeah, employees.

17 MR. STEADMAN: We will. We will be, for sure.

18 CHAIR FUJII: Okay. Again, you know, it's been
19 a long day for all of you and for all of us, of course.
20 But, you know, that's part of, you know, having a open
21 hearing from both sides, from prosecutor, from yourself,
22 from the licensee. And, again, you know, we would like to
23 help more than being here to punish anyone. It's our job
24 to make sure you get proper training and the Department's
25 willing to, you know, help you folks along with any

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1 problems you may have. And again, it's something that,
2 you know, we don't condone because it's -- lives can be
3 affected by, you know, over-serving, underage drinking,
4 that sort of thing. So, again, thank you for coming and
5 spending the day with us. The Department will notify you
6 when payment is due. Thank you.

7 MR. STEADMAN: Appreciate your time and we'll
8 definitely be more -- a lot more diligent and get this
9 done properly.

10 CHAIR FUJII: Thank you.

11 MR. STEADMAN: Thank you.

12 CHAIR FUJII: So as far as your side, you're
13 dismissed. We have some other business we are going to
14 conduct here.

15 MR. STEADMAN: Okay.

16 MS. STEADMAN: Okay. Thank you very much.

17 CHAIR FUJII: Sure. Glenn, going to
18 Administrative Affairs, do you want to go over any item
19 there that --

20 DIRECTOR MUKAI: Yeah. I believe this is a
21 annual County policy to distribute to educate you guys on
22 what you already were told in orientation. The County of
23 Maui Policy Against Discrimination, Violence in the
24 Workplace Action Plan and Ethics.

25 MS. CORDEIRO: (Inaudible) don't forget.

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1 DIRECTOR MUKAI: And it's given to all the
2 Commission and Board members as well as all County
3 employees yearly.

4 CHAIR FUJIII: Okay.

5 DIRECTOR MUKAI: That's all we have.

6 CHAIR FUJIII: Nothing else from the Department?

7 MEMBER DE MELLO: Oh, okay.

8 CHAIR FUJIII: As far as before we dismiss
9 everybody, we know we have these two, D-1 and D-2, that I
10 think we would like to have the Department dispose of.
11 There's some personal information in here. So leave it on
12 the desk for disposition by the Department.

13 MS. CORDEIRO: I'm sorry. One more thing.

14 CHAIR FUJIII: Go ahead.

15 MS. CORDEIRO: Some of you do know that there
16 were a revision to some of the rules pertaining to your
17 binders that you keep at home. If it is a reference
18 material that you rely on, I have the revised rules for
19 you to take with you to replace your binder at home.

20 CHAIR FUJIII: Stop at --

21 MEMBER DE MELLO: Stop at your desk.

22 MS. CORDEIRO: Come on by.

23 CHAIR FUJIII: Any other business to conduct at
24 this time? If not, someone make a motion to adjourn.

25 MEMBER ARIAGA: Motion.

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MEMBER DE MELLO: Second.
CHAIR FUJII: We are adjourned. (Gavel.)
(Meeting adjourned, 12:54 p.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 24th day of May, 2017.

/s/ Tonya McDade

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