

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 9:04 a.m., on Thursday, December 7, 2017.

Reported by: Tonya McDade, CSR, RPR, CRR, CRC  
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1 BOARD MEMBERS PRESENT:

2 Donald Fujii, Chairperson

3 Wayne Pagan, Vice-Chairperson

4 Candace Ariaga, Member

5 Zachary Helm, Member

6 Gwen Ueoka, Member

7 Bruce U`u, Member

8 Jason Williams, Member

9 STAFF PRESENT:

10 Edward Kushi, Jr., First Deputy Corporation Counsel

11 Peter Hanano, Deputy Prosecuting Attorney

12 Glenn Mukai, Director

13 Mark Honda, Deputy Director

14 Bill Pacheco, Chief Enforcement Officer

15 Sharon Ito, Private Secretary

16 Karilee Yoshizawa, Liquor Control Officer IV

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1 (Thursday, December 7, 2017, 9:04 a.m.)

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3 CHAIR FUJII: (Gavel.) Good morning. Meeting  
4 of the Liquor Control Adjudication Board is now called to  
5 order pursuant to Section 281-91 of the Hawaii Revised  
6 Statutes and Section 8-13.3 of the Charter of the County  
7 of Maui to consider the matters and issues as posted on  
8 today's agenda. At this time we would like the Board  
9 Members and staff to please introduce yourselves, starting  
10 with our Secretary.

11 MS. ITO: Sharon Ito, Liquor Control.

12 MS. YOSHIZAWA: Kari Yoshizawa, Liquor Control.

13 MEMBER ARIAGA: Candace Ariaga, Lanai.

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

15 MEMBER WILLIAMS: Jason Williams, Wailuku.

16 MR. KUSHI: Ed Kushi.

17 CHAIR FUJII: Donald Fujii, Wailuku.

18 VICE-CHAIR PAGAN: Wayne Pagan, Upcountry.

19 MEMBER HELM: Zach Helm, Molokai.

20 MEMBER UEOKA: Gwen Ueoka, Wailuku.

21 DIRECTOR MUKAI: Glenn Mukai, Liquor Control.

22 DEPUTY DIRECTOR HONDA: Mark Honda, Liquor  
23 Control.

24 MR. HANANO: Peter Hanano on behalf of the  
25 Deputy -- Department of Prosecuting Attorney.

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

3 CHAIR FUJII: Thank you, everyone.

4 The Board has -- hasn't met for quite a while.  
5 So, again, if we kind of forget each other's names, well,  
6 excuse the Chair because, like I said, we haven't had a  
7 meeting like four or five months, maybe. Maybe more.  
8 Five months?

9 MEMBER UEOKA: Five months.

10 CHAIR FUJII: So, anyway, thanks for having all  
11 of you here today. We do have two absentees who are  
12 excused. Lahela Aiwohi and Jerrybeth De Mello, both  
13 excused for today's meeting.

14 At this time we will now hear Complaint and  
15 Accusation Number 2018-02, in the matter against Tamura  
16 Enterprises, Inc. doing business as Tamura's Fine Wine &  
17 Liquor -- & Liquors. Will the -- we will now hear the  
18 Complaint and Accusation, as I said. Will the Respondent  
19 or its representative please step forward and state your  
20 name and what capacity you represent the licensee?

21 MR. CHING: Good morning, Commissioners. My  
22 name is David Ching. I'm the Director of Operations for  
23 Tamura Enterprise. I'm representing our company today.

24 CHAIR FUJII: Mr. Ching, at this time you have  
25 the option of having the charges publicly read or you can

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1 waive the reading. What is your choice?

2 MR. CHING: We'll waive the reading.

3 CHAIR FUJII: Again, Mr. Ching, for the record,  
4 do you represent the Respondent involved?

5 MR. CHING: Yes, I do, Chair.

6 CHAIR FUJII: All of the questions that are  
7 being asked must be verbally responded because we do have  
8 a recorder. Do you have legal counsel, Mr. Ching?

9 MR. CHING: Not with me today.

10 CHAIR FUJII: Do you understand that you have  
11 the right to have legal counsel present?

12 MR. CHING: I do, Chair.

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

15 MR. CHING: We do, Chair.

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

17 MR. CHING: We plead no contest.

18 CHAIR FUJII: And Count 2?

19 MR. CHING: No contest.

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

23 MR. CHING: Yes, we do.

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

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1 MR. CHING: Yes, we do, Chair.

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

6 MR. CHING: Yes, Chair.

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

10 MR. CHING: Voluntary, Chair.

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

17 MR. CHING: Yes, we do, Chair.

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

20 MR. CHING: Yes, we do, Chair.

21 CHAIR FUJII: The Board hereby finds that the  
22 licensee has entered a knowing and voluntary plea of no  
23 contest. The Board accepts your plea and finds you guilty  
24 of Count 1 and 2 reflected in Complaint and Accusation  
25 Number 2018-02.

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

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

4           This case involved a minor decoy operation which  
5 took place on Saturday, July 22, 2017. The Minor Decoy  
6 Team was comprised of Liquor Control Officers Bill  
7 Pacheco, Robert Shiigi, Cullen Kawano, and Maui Police  
8 Department officers Sergeant Eric Lee Correa and Jeremy  
9 Pallone-De La Torre, and a male minor decoy.

10           The Minor Decoy Checklist was reviewed with the  
11 minor decoy, informing him of the requirements and rules  
12 pertaining to the minor decoy operations. The rules  
13 required, among other things, that the minor carry his  
14 valid Hawaii State driver's license on his person at all  
15 times and that he answer any questions about his age  
16 truthfully and that he present his valid State  
17 identification card when asked by any employee of the  
18 licensed premises to do so. Minor decoy reviewed and  
19 signed the Minor Decoy Checklist indicating that he  
20 understood what was read to him. The minor decoy's ID  
21 card was printed in a vertical format which clearly  
22 indicated that the minor decoy became 21 years of age on  
23 04-14-2020. As part of the operation, the minor decoy was  
24 provided with a 20-dollar bill to use as buy money.

25           On July 22nd, 2017, at about 7:55 p.m., Officer

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1 De La Torre entered the Tamura's Fine Wine & Liquors  
2 establishment located at 91 and 99 East Lipoa Street,  
3 Kihei, Maui, Hawaii. About a minute later, the minor  
4 decoy followed Officer De La Torre into the store. After  
5 entering the store, the minor decoy walked towards the  
6 refrigerator section of the store and removed a six-pack  
7 of Bud Light cans from the shelf and proceeded to the  
8 checkout stand. After placing the six-pack of Bud Light  
9 beer on the check stand counter, the female cashier, later  
10 identified as Elizabeth Ebner, rang up the six-pack and  
11 indicated the total for the sale. Following that, the  
12 minor decoy handed Ebner the 20-dollar bill buy money, to  
13 which Ebner accepted and handed the minor decoy back the  
14 change. At no time during the transaction did Ebner ask  
15 for the minor decoy's ID or age. The entire transaction  
16 was observed by Officer De La Torre as he positioned  
17 himself by the cigar stand which gave the officer a clear  
18 view of the check stand. After the sale was completed,  
19 the minor decoy left the premises and was met outside by  
20 Sergeant Correa and Officer Shiigi, at which time the  
21 minor decoy handed over the six-pack of Bud Light and the  
22 change to them.

23 As part of the investigation, Elizabeth Ebner  
24 was interviewed, at which time she provided the following  
25 statement: Stated that she had been working for Tamura's



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1 since June 5th, 2017; her shift that day was from 3:00  
2 p.m. to 9:30 p.m.; stated that she did have a preliminary  
3 written test administered by the licensee which included  
4 the proper checking of identifications. According to  
5 Ebner, she thought she had seen the minor decoy or someone  
6 that looked like him in the store before and had helped  
7 him on a prior occasion and that was the reason she did  
8 not ask for the minor decoy's ID or ask him for his age.  
9 Ebner further elaborated she thought that she had helped  
10 the minor decoy on a prior work shift, which was about  
11 three days ago. Ebner did not possess an Employee  
12 Approved by the Director Card.

13           Also, as part of the investigation, the manager,  
14 Chiami Yazaki, was interviewed, at which time she provided  
15 the following statement: Stated that all employees go  
16 through initial training when hired, which includes a  
17 written test on the proper checking of identification;  
18 stated that employees are often reminded to check IDs  
19 prior to the sale of liquor.

20           Nothing further, Chair. Thank you.

21           CHAIR FUJII: Thank you, Mr. Hanano.

22           Regarding Mr. Hanano's report, any questions by  
23 Members of the Board regarding the report as submitted by  
24 the Prosecutor? No questions.

25           Mr. Ching, at this time, you now have an

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1 opportunity to make a statement regarding this case. You  
2 may inform the Board of any mitigating circumstances which  
3 may or may not apply to sentencing. Mr. Ching.

4 MR. CHING: Chair, thank you. Fortunately, this  
5 is my first time in front of the Commission.  
6 Unfortunately, this is the first time in front of the  
7 Commission. So I'm not really sure on what I should or  
8 shouldn't say. But I -- I -- I can tell you, from Tamura  
9 Enterprises' point of view, we do take the enforcement of  
10 the liquor laws serious and we do think this incident, as  
11 unfortunate as it is, is very serious. It has led to the  
12 termination of the employee involved. This is our  
13 livelihood. We depend on our liquor license for our  
14 business. So it is -- it is -- it is a serious matter for  
15 us. And -- and we are -- are sincerely apologetic for  
16 allowing it to happen. And we are taking steps, we --  
17 continual steps to remind and train our employees that any  
18 sales involving liquor, controlled substances like  
19 alcohol -- I mean tobacco and alcohol, that we get the  
20 proper identification of the customers who are making the  
21 purchases. So we will continue to do that. And,  
22 hopefully, this is the last time ever anyone from our --  
23 our firm is ever in front of this Commission for this type  
24 of matter.

25 Thank you.

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1 CHAIR FUJII: Thank you, Mr. Ching.

2 Again, opening it up to the Board for any  
3 questions directed to Mr. Ching regarding this case.  
4 Anyone? Bruce.

5 MEMBER U`U: So, Mr. Ching, the training that  
6 you guys do for your employees, is that something that's  
7 done prior to hiring? 'Cause if I not mistaken, she  
8 worked for a few months, correct, four months, five  
9 months?

10 MR. CHING: I'm not sure exactly the time  
11 period, Member, but the training, it actually starts with  
12 the initial screening test. The applicant screening test  
13 has some questions and proceed -- regarding checking IDs.

14 CHAIR FUJII: Okay. Anyone else with any  
15 questions? Ms. Ueoka.

16 MEMBER UEOKA: Can you describe for us what your  
17 ongoing training, then, is?

18 MR. CHING: I -- I can. With -- with -- we --  
19 we have a initial training with -- for our cashiers that  
20 includes identification verification. And at least once a  
21 month, all of the cashiers in the stores are reminded by  
22 all of the managers, because all of the managers are  
23 reminded by me, to -- on how to check IDs. And this is a  
24 verbal process. We're, actually, starting to implement a  
25 monthly written process where, as soon as the cashiers are

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1 reminded, that they go through our current written policy  
2 and sign off on it again. So we're gonna do that on a  
3 monthly basis.

4 MEMBER UEOKA: So are cashiers told at the time  
5 of employment that if you don't -- if you violate checking  
6 for ID or something like that, that they will be  
7 dismissed?

8 MR. CHING: Yes. It's, actually, in our written  
9 policy.

10 MEMBER UEOKA: Okay.

11 MR. CHING: It -- the penalty is up to dismissal  
12 for us.

13 MEMBER UEOKA: Okay. Thank you.

14 CHAIR FUJII: Any -- any other questions by  
15 Members of the Board directed to Mr. Ching? Again, the  
16 employee was -- how long has the Kihei outlet been open  
17 now?

18 MR. CHING: Kihei, just a little over a year, I  
19 believe.

20 CHAIR FUJII: A year?

21 MR. CHING: Yeah.

22 CHAIR FUJII: Okay. And I guess this is the  
23 first incident, I'm sure, that you -- you haven't been  
24 here before, right?

25 MR. CHING: For me personally, this is the

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1 first. As far as I know, and I've been told, this is the  
2 first for Tamura Enterprises.

3 CHAIR FUJII: I see. Okay. Thank you. If no  
4 further questions, Mr. Hanano, what would be the  
5 Director's argument as to penalty?

6 MR. HANANO: Yes. Thank you, Chair. Original  
7 license for this licensee was issued back in June of 2016.  
8 So it's been, I think, about a month -- a year, roughly,  
9 when this -- a little over a year. There are no prior  
10 convictions. So in light of that, Count 1, we're  
11 recommending a \$2,000 fine with 1,000 suspended on the  
12 condition that there's no further convictions for the same  
13 offense within a one-year period. And in Count 2, we are  
14 recommending a \$500 fine.

15 CHAIR FUJII: Thank you, Mr. Hanano. The Board  
16 will take all matters as presented this morning into  
17 consideration. I would like to have a motion to go into  
18 deliberation.

19 MEMBER U`U: Motion.

20 MEMBER ARIAGA: Motion.

21 CHAIR FUJII: Okay. Moved --

22 MEMBER HELM: Seconded.

23 MEMBER U`U: Second.

24 CHAIR FUJII: Let's start with Candace making a  
25 motion and Mr. Bruce U`u seconding it. Any discussion?

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1 If not, all in favor of the motion?

2 MR. KUSHI: Mr. Chair, question. Question for  
3 staff. License Number 435, it's issued only to the Kihei  
4 store? I know there's several stores.

5 DIRECTOR MUKAI: Yeah. The --

6 MR. PACHECO: I believe that it's individual  
7 licensees.

8 MR. KUSHI: Each store has a separate license?

9 DIRECTOR MUKAI: Yes.

10 MR. PACHECO: Right.

11 MR. KUSHI: Is that true?

12 DIRECTOR MUKAI: Yes.

13 MR. KUSHI: Okay.

14 CHAIR FUJII: Any other further questions,  
15 anyone? If not, we did have the motion moved and  
16 seconded. All in favor, say "aye."

17 (Response.)

18 CHAIR FUJII: Any opposed?

19 (No response.)

20 CHAIR FUJII: Motion carried. We would ask  
21 everyone to move -- we'll be calling you back. We'll be  
22 deliberating here.

23 MR. CHING: Thank you.

24 (Deliberations, 9:18 a.m. to 9:27 a.m.)

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

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1 Mr. Ching, after discussion -- after deliberations here at  
2 the Board, we are issuing the penalties. For Count 1, the  
3 penalty will be \$2,000 of which \$1,000 will be suspended  
4 providing there is no reoccurrence of this same violation  
5 within a period of -- what was the period?

6 MEMBER HELM: One year.

7 CHAIR FUJII: Within a period of one year. On  
8 Count 2, Mr. Ching, the penalty is \$500. And the Board  
9 felt that we will suspend the total \$500 provided there is  
10 no reoccurrence of the same offense within a period of one  
11 year. Thank you for being here and explaining the  
12 background on this case, Mr. Ching.

13 MR. CHING: Thank you, Chair. Happy holidays,  
14 Commission. Thank you.

15 CHAIR FUJII: Okay. We will now move up on the  
16 agenda to Accusation 2018-04. But before we get to that,  
17 the Department has decided to -- that Count 2 be  
18 dismissed. Yeah, Count 2 will be dismissed. We will now  
19 then hear Complaint and Accusation Number 2018-04 against  
20 Lahaina Beverage Management doing business as Safeway.

21 MR. PROVENZA: Good morning.

22 CHAIR FUJII: Respondent, you're already there  
23 in your seat, so, again, would you identify yourself and  
24 what capacity you represent the licensee?

25 MR. PROVENZA: Good morning, Chair, Members.

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1 Gabriele Provenza on behalf of the licensee, Lahaina  
2 Beverage Management, Inc.

3 CHAIR FUJII: Would -- would you spell your last  
4 name?

5 MR. PROVENZA: Provenza, P-R-O-V-E-N-Z-A.

6 CHAIR FUJII: Pronenza?

7 MR. PROVENZA: Provenza.

8 MEMBER HELM: Provenza.

9 CHAIR FUJII: Thank you.

10 MR. PROVENZA: And I'm here on behalf of the  
11 licensee Lahaina Beverage Management, Inc. To my right is  
12 Robin Truxal, T-R-U-X-A-L, and he is the Store Director  
13 and authorized representative.

14 CHAIR FUJII: Thank you, Mr. Prodenza and  
15 Mr. Truxal. At this time, Mr. Pronenza -- is it Pronenza  
16 or --

17 MEMBER UEOKA: Provenza.

18 CHAIR FUJII: Provenza.

19 MEMBER UEOKA: Provenza.

20 MEMBER U`U: Za.

21 MEMBER ARIAGA: Za.

22 CHAIR FUJII: Provenza.

23 MEMBER U`U: Like Yakuza.

24 MEMBER WILLIAMS: Not quite the same, but okay.

25 CHAIR FUJII: Okay. At this time, Mr. Provenza,



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1 you have the option of having the charge, Count 1, read or  
2 you can waive the reading. What is your preference?

3 MR. PROVENZA: We would like to waive the  
4 reading.

5 CHAIR FUJII: Thank you. Again, Mr. Provenza,  
6 for the record, do you represent the Respondent involved?

7 MR. PROVENZA: Yes.

8 CHAIR FUJII: Do you have legal counsel?

9 MR. PROVENZA: I am legal counsel on behalf of  
10 the licensee.

11 CHAIR FUJII: Oh, good. You understand that you  
12 have the right -- well, you already are the legal counsel.  
13 Do you understand the charge -- charge against you?

14 MR. PROVENZA: Yes.

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

16 MR. PROVENZA: No contest.

17 CHAIR FUJII: Do you understand the violation  
18 the Department of Liquor Control alleges against you?

19 MR. PROVENZA: Yes.

20 CHAIR FUJII: Do you understand that you have  
21 the right to plead not guilty?

22 MR. PROVENZA: Yes.

23 CHAIR FUJII: Do you understand by pleading --  
24 I'm sorry. You did plead no contest, was it?

25 MEMBER UEOKA: Yeah.

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1 MR. PROVENZA: Yeah.

2 MEMBER UEOKA: Uh-huh.

3 CHAIR FUJII: Do you understand that you have  
4 the right to plead not -- no contest?

5 MR. PROVENZA: Yes.

6 CHAIR FUJII: I'm sorry. Do you understand you  
7 have the right to plead not guilty -- do you understand,  
8 by pleading no contest, you waive the right to a hearing  
9 in which you could present evidence and question witnesses  
10 on your behalf?

11 MR. PROVENZA: Yes, I understand.

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

15 MR. PROVENZA: Yes, it's voluntary.

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

22 MR. PROVENZA: Yes, I understand.

23 CHAIR FUJII: Do you still wish to plead no  
24 contest?

25 MR. PROVENZA: Yes.

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1 CHAIR FUJII: The Board hereby finds that the  
2 licensee has entered a knowing and voluntary plea of no  
3 contest. The Board accepts your plea and finds you guilty  
4 on Count 1 reflected in Complaint and Accusation Number  
5 2018-04.

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

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

9 This case involved a minor decoy operation which  
10 took place on Friday, July 14th, 2017. The Minor Decoy  
11 Team was comprised of Liquor Control Officers Bill  
12 Pacheco, Robert Shiigi, Cullen Kawano, and Maui Police  
13 Department officers Sergeant Eric Lee Correa and Andrew  
14 Cabral, Jr. and a male minor decoy.

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

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1 The minor decoy's ID card was printed in a vertical  
2 format, which clearly indicated that the minor decoy  
3 became 21 years of age on 04-14-2020. As part of the  
4 operation, the minor decoy was provided with a \$20 bill to  
5 use as buy money.

6 On July 14, 2017, at about 7:28 p.m., Officer  
7 Cabral entered the Safeway store located at 58 Maui Lani  
8 Parkway, Wailuku, Maui, Hawaii. About a minute later, the  
9 minor decoy entered the store and walked to the chilled  
10 beverage aisle where the minor decoy selected a six-pack  
11 of Maui Brewing Company beer. After that, the minor decoy  
12 headed for the check stand where Officer Cabral stood  
13 behind the minor decoy in the checkout line. After  
14 placing the six-pack of the Maui Brewing Company beer on  
15 the counter, the cashier, later identified as Chassidy  
16 Rose Kwon, scanned the beer, then asked the minor decoy  
17 for his ID. Following that, the minor decoy handed Kwon  
18 his Hawaii State driver's -- Hawaii State Identification  
19 Card. Kwon then took the ID, looked at it for about three  
20 to five seconds, punched information into the register,  
21 then indicated the total sale amount to the minor decoy.  
22 The minor decoy handed Kwon the 20-dollar buy money, which  
23 Kwon -- which Kwon accepted, and, in return, handed the  
24 minor decoy the change, the receipt and the six-pack of  
25 beer in a bag. Following that, the minor decoy exited the

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1 store, at which time Officer Cabral identified himself as  
2 a police officer and informed Kwon that she had just sold  
3 liquor to a person under the age of 21.

4 As part of the investigation, Chassidy Rose Kwon  
5 was interviewed, at which time she provided the following  
6 statement: Stated that she has worked for Safeway for  
7 about two months, stated that, as part of her employment  
8 at Safeway, she had gone through a computer-based employee  
9 orientation which included a section on checking IDs  
10 properly. Kwon acknowledged that she checked the  
11 minor's -- minor decoy's ID, but did not ask him his age.  
12 According to Kwon, she must have read the birth year on  
13 the ID wrong because she entered the year 1990 into the  
14 computer which allowed the sale of liquor. Kwon also  
15 stated that she did have an Employee Approved by the  
16 Director Card, but that she must have left it at home.

17 Also, as part of the investigation, the manager,  
18 Patrick Hall, was interviewed, at which time he provided  
19 the following statement: Stated that all employees go  
20 through initial computer training on how to properly check  
21 IDs as well as undergo a once-a-year recurring training.

22 Nothing further, Chair. Thank you.

23 CHAIR FUJIII: Thank you, Mr. Hanano. Any  
24 questions for Members of the Board as presented in  
25 Mr. Hanano's -- Mr. Hanano's report? Any questions? If

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1 none, Mr. Provenza, you now have the opportunity to  
2 present the -- I'm sorry. I am one page ahead of myself  
3 here. Okay. You may present your report, Mr. Provenza.

4 MR. PROVENZA: Thank you, Chair. I'd just like  
5 to start out by saying that the licensee takes these  
6 matters very seriously and apologizes to -- to the Members  
7 and to the community for allowing this violation to  
8 happen. While they do have procedures in place, the  
9 licensee has a number of procedures in place, this  
10 violation was still able to happen. And the licensee took  
11 immediate action by terminating the employee. And  
12 they've, also, looked into and implemented some further  
13 changes to help prevent future violations.

14 As the report notes, they currently, and in the  
15 past, have had the computer-based training, which is  
16 mandatory prior to employment. They're, also, required to  
17 sign a policy acknowledgment form that sets forth, you  
18 know, the procedures for checking IDs and, also, the  
19 penalties, administrative and criminal, that accompany,  
20 you know, the failure to comply with that policy.

21 They, also, have the cash register mechanism  
22 which is commonplace now. And, obviously, in this case,  
23 it was circumvented by punching in what the employee  
24 claimed was a misread date.

25 I, also, will note that the licensee does

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1 quarterly checks of that register program to see if any of  
2 the -- the cash register clerks are -- are kind of just  
3 automatically punching in the same number. It's one way  
4 to kind of keep them honest and see that they're actually  
5 punching in an actual number.

6 And in terms of adding additional procedures, we  
7 have implemented not only just the computer-based  
8 training, but an in-person three-hour mandatory training  
9 where they're actually working with HR to -- the HR,  
10 security and a specialized training person that, also,  
11 covers the identification process.

12 So that's kind of our explanation, but bottom  
13 line is it shouldn't have happened and we're making sure  
14 it doesn't happen again.

15 CHAIR FUJII: Mr. Truxal, you have anything to  
16 add to that?

17 MR. TRUXAL: Nothing to add to that.

18 CHAIR FUJII: Okay. Any questions by Members of  
19 the Board regarding the -- Mr. Provenza's report, yeah?

20 MEMBER UEOKA: Of course I have questions.

21 CHAIR FUJII: Go ahead.

22 MEMBER UEOKA: Go ahead.

23 MEMBER HELM: Yeah. Mr. Provenza, what happened  
24 to your employee? Is he still employed?

25 MR. PROVENZA: No.

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1 MEMBER UEOKA: He said terminated.

2 MEMBER HELM: Oh, I didn't hear that part.

3 MR. PROVENZA: No. It's okay. Just to  
4 reiterate, she was an employee for two months at the --

5 MEMBER HELM: Yeah.

6 MR. PROVENZA: -- time this happened, she was  
7 within her probationary period and she was terminated  
8 according to the zero-tolerance policy.

9 MEMBER HELM: Thank you.

10 CHAIR FUJII: Gwen.

11 MEMBER UEOKA: You know, this is a very serious  
12 concern because the location of this store is directly  
13 across the street from Baldwin High School where there are  
14 some almost like 1,500 people there who are all underage  
15 and might be trying to do this. However, from my personal  
16 experience, I notice that they ask everybody for their ID.  
17 So that's good. So I have questions about -- you said  
18 that there was pre-service training and then you alluded  
19 to in-service training. So I want to know about the  
20 frequency of the in-service training.

21 MR. PROVENZA: Perhaps Robin is better equipped,  
22 because he's, actually, the Store Director there, to  
23 answer that.

24 MR. TRUXAL: So -- so once a month, they'll go  
25 over the alcohol policy, they --



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1 MEMBER UEOKA: Uh-huh.

2 MR. TRUXAL: -- sign it, you know. One of the  
3 managers or myself, you know, we sign it, too, to verify  
4 that, you know, they read it. And then the other training  
5 is a pre -- pre-hire training.

6 MEMBER UEOKA: Right.

7 MR. TRUXAL: So before they go on the floor,  
8 they --

9 MEMBER UEOKA: (Inaudible).

10 MR. TRUXAL: -- have to do the training.

11 MEMBER UEOKA: Okay.

12 MR. TRUXAL: But, yeah, it's once a month they  
13 sign the policy which explains the zero tolerance and how  
14 to check their ID.

15 MEMBER UEOKA: And upon employment, are they  
16 informed that the policy will be, if you violate, you're  
17 terminated?

18 MR. TRUXAL: Yes. So they -- I think it's  
19 worded "up to termination," you know.

20 MEMBER UEOKA: Okay.

21 MR. PROVENZA: But with -- with this employee,  
22 especially early on, they're within a probationary period,  
23 so there's extra attention in that period. And it's clear  
24 that they can be terminated within that period for these  
25 kind of things.

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1 MEMBER UEOKA: Thank you.

2 CHAIR FUJIII: Before I ask for any other  
3 questions, regarding the report as presented by Mr. Hanano  
4 there, the -- we call this a sting operation. Of course,  
5 it's a minor. And the -- the vertical license for the  
6 minors are key thing that gotta be stressed, if you  
7 haven't stressed that with your cashiers, you know. That  
8 vertical license could mean -- sometimes it could be --  
9 the dates could mean that it's -- they haven't renewed the  
10 license so they didn't get the horizontal one. But if --  
11 other than -- it's vertical, extra care must be handled,  
12 you know. I don't know if you guys stress that in your  
13 guys' training, but that -- that just automatically is --

14 MR. PROVENZA: Yeah.

15 CHAIR FUJIII: -- you know, denial of sale.

16 MR. PROVENZA: Definitely agree that it should  
17 be raising, you know, high alert red flags.

18 CHAIR FUJIII: Yeah.

19 MR. PROVENZA: And extra attention to where  
20 you're punching in the number, it better be correct of  
21 what's on there. Anything to add on that?

22 MR. TRUXAL: No.

23 CHAIR FUJIII: We'll open up. Thank you. Any  
24 further questions, anyone, regarding the report and since  
25 we have the licensee here today?

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1 MEMBER U`U: Yeah, I have a question.

2 CHAIR FUJII: Bruce.

3 MEMBER U`U: So are you saying the employee  
4 punched in the wrong date of the birth?

5 MR. PROVENZA: Well, I --

6 MEMBER U`U: I'm just curious.

7 MR. PROVENZA: Yeah.

8 MEMBER U`U: Possibly this is what --

9 MR. PROVENZA: Her explanation was that she --  
10 'cause the report states that she looked at the ID for  
11 three to five seconds or so. And she did punch in a  
12 number into the cash register, which, apparently, was --  
13 registered the year 1990. And she's saying that she  
14 misread the ID and thought she punched in 1990 correctly.  
15 Now, obviously, we can't know what was going on in her  
16 head. And it doesn't really matter because we gotta take  
17 that seriously, what you're punching in. But that's my  
18 understanding of what happened.

19 MEMBER WILLIAMS: And -- and this was the --

20 CHAIR FUJII: Jason.

21 MEMBER WILLIAMS: This was the first violation?

22 MR. PROVENZA: I believe this was the second,  
23 but I -- Prosecuting Attorney, I think, is going to inform  
24 us for sure.

25 MR. HANANO: It's the second.

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1 MR. KUSHI: Question. So if this employee had  
2 punched in the correct number, date of birth or year, the  
3 cash -- cash register would alarm or whatever?

4 MR. PROVENZA: The sale would not have been  
5 allowed to go through if it had been a date that signified  
6 under 21.

7 MR. HANANO: Just for the Board's information,  
8 the correct date on the identification was 1999, the date  
9 of birth, the year -- year of birth.

10 MR. KUSHI: Only nine years off, then?

11 MEMBER WILLIAMS: Nine and the zero,  
12 (inaudible).

13 CHAIR FUJII: Okay. Any further questions  
14 addressed to the licensee by the Board? No further  
15 questions.

16 Mr. Hanano, what would be the Director's  
17 argument as to penalty in Count 1.

18 MR. HANANO: Thank you, Mr. Chair.

19 CHAIR FUJII: Count 1.

20 MR. HANANO: Count 1, the original license for  
21 this licensee was issued back in August of 2013. There  
22 is, like I mentioned before, a prior conviction for the  
23 same offense. That was on April 7th, 2016. In light of  
24 that, we're recommending a \$2,000 fine with no portion of  
25 the fine be suspended because it's the second.

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1 CHAIR FUJII: Thank you, Mr. Hanano. The Board  
2 will take all matters that were presented here this  
3 morning into consideration. I would now entertain a  
4 motion to go into deliberation. Moved by Jason.

5 MEMBER HELM: Second.

6 CHAIR FUJII: Seconded by Zach. Any discussion?  
7 All in favor, say "aye."

8 (Response.)

9 CHAIR FUJII: Any opposed?

10 (No response.)

11 CHAIR FUJII: None. We'll call you up -- we'll  
12 call you back.

13 (Deliberations, 9:45 a.m. to 9:50 a.m.)

14 CHAIR FUJII: The Board is back in open session.  
15 Mr. Provenza, among the discussion with the Board -- after  
16 discussion with the Board, the penalty, as recommended by  
17 the Prosecutor, and reviewing the records that we have  
18 before us, and it is a second offense, and it is, again, a  
19 serious offense -- selling to minors has been brought up  
20 in previous case besides yours -- so the penalty for Count  
21 1 is \$2,000. And, again, we take it very seriously as --  
22 and, again, being in a location where there are a lot of,  
23 you know, underage -- it's a high volume store, we know,  
24 right there, right across the high school there, again.  
25 So your business must be very careful, again, with sales

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1 of liquor. The -- again, the -- for Count 1, the penalty  
2 will be \$2,000. And thank you for coming in, explaining  
3 the -- whatever support is supported by the prosecutor.  
4 Thank you.

5 MR. PROVENZA: Thank you for your time. Thank  
6 you, also, Department and Prosecuting Attorney.

7 CHAIR FUJII: Okay. The Department will notify  
8 you when payment is due.

9 MR. PROVENZA: Okay. Happy holidays.

10 CHAIR FUJII: Happy holidays. Okay. Glenn, any  
11 further business today other --

12 DIRECTOR MUKAI: Other than that, we're having  
13 our annual holiday luncheon on December 13th, right after  
14 Commission hearing, which should be about noon since there  
15 is a 22-page agenda.

16 MEMBER WILLIAMS: Wow.

17 DIRECTOR MUKAI: So you're all invited, please  
18 come and enjoy.

19 CHAIR FUJII: Okay. Thank you.

20 MEMBER UEOKA: Are you sure it's not dinner?

21 MEMBER WILLIAMS: Food and drink?

22 DIRECTOR MUKAI: Food.

23 CHAIR FUJII: The Department of Liquor Control.  
24 Remember the control part, control.

25 MEMBER U`U: Under control.

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1 CHAIR FUJII: Under control. Anyone else?  
2 Okay. If not, someone make a motion to adjourn.

3 MEMBER ARIAGA: Motion.

4 MEMBER WILLIAMS: Second.

5 CHAIR FUJII: We're adjourned. Thank you,  
6 everybody. (Gavel.)

7 (Meeting adjourned, 9:52 a.m.)

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CERTIFICATE

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

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

DATED this 5th day of January, 2018.

/s/ Tonya McDade

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Tonya McDade  
Certified Shorthand Reporter #447  
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