

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

TRANSCRIPT OF PROCEEDINGS
REGULAR MEETING

Held at the Department of Liquor Control Conference Room, David K. Trask, Jr. Office Building, 2145 Kaohu Street, Room 108, Wailuku, Maui, Hawaii, commencing at 9:00 a.m., on Thursday, May 3, 2018.

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1 BOARD MEMBERS PRESENT:
2 Bruce U`u, Chairperson
3 Gwen Ueoka, Vice-Chairperson (Out, 9:02 a.m., In, 9:48
4 a.m.)
5 Lahela Aiwohi, Member
6 Candace Ariaga, Member
7 Richard Bergson, Member (In, 9:04 a.m.)
8 Jerrybeth De Mello, Member
9 Zachary Helm, Member
10 Herman Nascimento, Member
11 Jason Williams, Member
12 STAFF PRESENT:
13 Ed Kushi, Jr, First Deputy Corporation Counsel
14 Peter Hanano, Deputy Prosecuting Attorney
15 Glenn Mukai, Director
16 Gene Sylva, Liquor Control Officer IV
17 Karilee Yoshizawa, Liquor Control Officer IV
18 Lianne Suzuki, Private Secretary

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(Thursday, May 3, 2018, 9:00 a.m.)

CHAIR U`U: Good morning. The meeting of the Liquor Control Adjudication Board is now called to order. Will the Board Members and Staff please introduce yourselves, starting from the left?

MEMBER DE MELLO: Jerrybeth De Mello, from Lahaina.

MEMBER ARIAGA: Candace Ariaga, Lanai.

MR. KUSHI: Ed Kushi.

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

VICE-CHAIR UEOKA: Gwen Ueoka, Wailuku.

MEMBER HELM: Zachary Helm, Molokai.

MEMBER WILLIAMS: Jason Williams, Wailuku.

MEMBER NASCIMENTO: Herman Nascimento, Makawao.

DIRECTOR MUKAI: Glenn Mukai, Liquor Control.

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

MS. YOSHIZAWA: Kari Yoshizawa, Liquor Control.

MS. SUZUKI: Lianne Suzuki, Liquor Control.

CHAIR U`U: Good morning. Just for housekeeping, we gonna put hearings A for last, on the Tante's, and we'll be starting off with B. We will now hear Complaint and Accusation Number 28-13 [sic].

VICE-CHAIR UEOKA: On the record, I recuse --

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1 Gwen Ueoka, I'm recusing myself for this. Thank you.

2 CHAIR U`U: Thank you. We will now hear
3 Complaint and Accusation Number 218-13 [sic] against 90210
4 Management Company, LLC doing business as Grand Wailea
5 Resort Hotel & Spa.

6 MR. NAKAMURA: Good morning, Mr. Chair, Members
7 of the Board. Craig Nakamura, attorney on behalf of the
8 licensee. This is Mr. Shane Komine, sitting with me,
9 Director of Banquet Operations. Also here are Bart
10 Santiago, who is the Director of Finance, and Gale
11 Fujiwara, who is the Director of Meetings and Convention
12 Services.

13 CHAIR U`U: Thank you. Will the Respondent or
14 its representatives step forward -- thank you for stepping
15 forward. In what capacity do you represent the
16 Respondent?

17 MR. NAKAMURA: I'm the attorney for the
18 licensee.

19 CHAIR U`U: At this time you have the option of
20 having the charges publicly read or you can waive the
21 reading. What is your preference?

22 MR. NAKAMURA: We'll waive the reading of
23 charges.

24 CHAIR U`U: Mr. Nakamura, for the record, do you
25 represent the Respondent involved?

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1 MR. NAKAMURA: Yes, I do.

2 CHAIR U`U: You are legal counsel?

3 MR. NAKAMURA: Yes, I am.

4 CHAIR U`U: Do you understand that you have the
5 right -- do you understand the charges against you?

6 MR. NAKAMURA: Yes, we do.

7 CHAIR U`U: What is your plea to each count?

8 MR. NAKAMURA: So there are six counts on this
9 Complaint and Accusation. We have arranged a plea
10 agreement with the prosecutor that I'm sure he'll talk
11 about as we go along, but if you want me to --

12 CHAIR U`U: You can turn 'em over to Peter.
13 Peter, please?

14 MR. HANANO: Thank you, Chair. That's correct,
15 pursuant to a plea agreement in this case, there -- let's
16 see, Count 1, there is a plea of no contest, Count 2 will
17 be dismissed with prejudice pursuant to a plea agreement,
18 Count 3 will be dismissed pursuant to a plea agreement,
19 Count 4, there's a no contest plea, Count 5 would be
20 dismissed pursuant to plea agreement and Count 6 would be
21 a no contest. So, basically, no contest to Count 1, 4 and
22 6, and the remaining counts will be dismissed with
23 prejudice pursuant to a plea agreement.

24 CHAIR U`U: Okay. Any questions from the Board?
25 Mr. Nakamura, do you understand the violations the

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1 Department of Liquor Control alleges against you?

2 MR. NAKAMURA: Yes, we do.

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

5 MR. NAKAMURA: Yes, we do.

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

10 MR. NAKAMURA: Yes, we do.

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

14 MR. NAKAMURA: Yes, it is.

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

21 MR. NAKAMURA: Yes, we do.

22 CHAIR U`U: Do you still wish to plead no
23 contest?

24 MR. NAKAMURA: Yes, we do.

25 CHAIR U`U: The Board hereby finds the licensee

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1 has entered a knowing and voluntary plea of no contest.
2 The Board accepts your plea and finds you guilty --
3 guilty of Counts 1, 4 and 6 reflected in Complaint and
4 Accusation Number 2018-13. Will the Department present a
5 summary of the case?

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

7 On April 15, 2017, at about 9:39 p.m. Maui
8 Police Department Officer Aaron Williams effected a
9 traffic stop on an individual identified as Paul Kenolio.
10 Kenolio exhibited signs of intoxication, including red,
11 watery eyes, flushed facial features, slurred speech, a
12 strong odor of liquor emanating from his breath.
13 Kenolio's head swayed as he sat within his vehicle.
14 During the traffic stop, Kenolio told police -- told the
15 officer that he had just come from the Mayor's Ball at the
16 Grand Wailea Resort Hotel & Spa, and that he consumed two
17 to three beers.

18 As part of the police investigation, Kenolio
19 agreed to participate in the standardized field sobriety
20 tests; however, he failed to perform the tests as
21 instructed. Kenolio was subsequently arrested and taken
22 to the Kihei Police Station where he provided a breath
23 sample which resulted in a .194 percent breath alcohol
24 content, which is over twice the legal limit of .08.
25 Kenolio was subsequently charged and convicted of OUI in

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1 Wailuku District Court on December 19th, 2017.

2 On April 25th, 2017, Liquor Control Officer
3 Cullen Kawano initiated an investigation of the Grand
4 Wailea Resort Hotel & Spa pursuant to information obtained
5 in the police reports involving Kenolio.

6 As part of the investigation, Officer Kawano
7 interviewed Paul Kenolio where he provided the following
8 statement in pertinent part. Stated that on April 15,
9 2017, he was at the Mayor's Ball event which was held at
10 the Grand Wailea Resort & Spa. While there, Kenolio had
11 dinner and drinks at the event. Kenolio stated that he
12 drank about 12 beers in total while at the event, which
13 was purchased from the cash bar. Kenolio thought he
14 was -- he was okay to drive and that it was his car, that
15 his passenger was drunker than he was, so he drove.
16 Kenolio stated that he had left the Grand Wailea Resort
17 and was on his way home when someone, apparently, called
18 and reported him to the police, that he was weaving and
19 swerving all over the road.

20 Also, as part of the investigation, several
21 attempts were made to obtain records from the Grand Wailea
22 Resort Hotel & Spa. Specifically, in May of 2017, Officer
23 Kawano contacted the licensee and attempted to obtain
24 records, including the guest list and/or table assignments
25 for the Mayor's Ball event. However, after multiple

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1 emails and phone calls during the period from May to
2 September of 2017, Officer Kawano was eventually informed
3 that they did not have some of the requested
4 information -- that they did have some of the requested
5 information, but did not have the guest list and/or table
6 assignment.

7 Also, as part of the investigation, it was
8 determined that manager Todd Temperly did not possess a
9 valid Employee Approved by the Director Card.

10 Nothing further. Thank you, Chair.

11 CHAIR U`U: Are there any questions by the
12 Board? Mr. Nakamura, you now have the opportunity to make
13 a statement regarding this case. You may, also, inform
14 the Board of any mitigating circumstances which may or not
15 apply to sentencing.

16 MR. NAKAMURA: Thank you very much, Mr. Chair.

17 We're here today with members of the hotel just
18 to provide a brief explanation as to what occurred, to let
19 you know that the hotel treats these matters very
20 seriously. We treat the serious of -- of alcohol as a
21 very big responsibility. And we have a training -- we
22 have training procedures in place, which we'll explain to
23 you. And we're trying to do everything we can to make
24 sure that this type of violation does not occur again.
25 With that said -- said, I would like to introduce

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1 Mr. Shane Komine -- well, let me -- let me, at least,
2 first explain a little bit about the incident that
3 occurred. You heard from the prosecutor as to how the
4 person that was involved was pulled over on the road after
5 the Mayor's Ball. This was a function at the hotel. It
6 takes place in the Haleakala Ballroom and, also, the
7 Garden Room. I think probably many of you have been to
8 these types of functions at the hotel. And you know that
9 there's a bar situated outside in the lobby area where
10 guests mingle in the front -- you know, the front area.
11 There's usually like a silent auction in that area. And
12 there's, also, a bar inside the -- inside the ballroom.
13 These are cash bars, so a person would buy a ticket,
14 usually, you know, to purchase drinks, then take that
15 ticket up to the bartender and -- and get his -- get his
16 drinks. So in this kind of situation, there's no excuses,
17 but it's a little difficult for the hotel to control the
18 actual consumption of alcohol because of the way that the
19 function occurs.

20 Anyway, with that said, I would like to
21 introduce Mr. Shane Komine to give you a little bit of
22 information about the training procedures at the hotel.
23 And I'd like to hand out some -- just a couple of exhibits
24 which show you the kind of things that the hotel does. Go
25 ahead, Shane.

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1 MR. KOMINE: Good morning, Members of the Board.
2 So just to -- to go over some of our procedures that we
3 have with our team members, especially our new hires.
4 Everyone, as you can see, once it's passed around, Exhibit
5 1, this is what each individual receives upon hire. And
6 it's a -- basically, a checklist that we as a property
7 need to go through for every single team member to ensure
8 that they have gone through the proper steps of -- of what
9 we call on-boarding or training.

10 On the Page 6 of 9, the second page in that
11 checklist, one of the areas that we cover, as you can see,
12 it's about five down, is alcohol service, safety and laws.
13 So we make sure that every -- every team member, every
14 server, every bartender, every manager goes through the
15 proper training procedures for the service of alcohol.

16 The other thing we do is every team member
17 must -- every server, bartender, manager and supervisor
18 must, also, come down and obtain their liquor card. So
19 they must pass that before they can even set foot in the
20 restaurants to serve alcohol.

21 We, also, on top of that, the training that we
22 do, it's called TIPS training. And that training is very
23 important to us because what it does is it gives our team
24 members the confidence to responsibly serve alcohol to our
25 guests. It's something that every team member needs to go

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1 through. It's good for two years. But what we've, also,
2 implemented is just having refreshers two or three times a
3 year in our pre-shifts and ensure that everyone is
4 certified in TIPS service.

5 I'm, also, one of the trainers on property. So
6 we have three trainers on property that we conduct the
7 TIPS training and get everyone certified on a yearly
8 basis.

9 MR. NAKAMURA: So I just want to point out,
10 Exhibit 2 in the -- in the packet that I handed you is the
11 handout that they give that describes the Maui County
12 liquor card, as they call it, and information that they
13 hand out to every server to get their card. And Exhibit 3
14 is a copy of the TIPS exam, just to give you kind of
15 information as to, you know, what's provided to the staff
16 members. And this is the kind of test that they have to
17 take after the training is done.

18 MR. KOMINE: TIPS training is very important
19 because it teaches our team members and our managers what
20 to look for as a guest -- you know, signs of intoxication,
21 behavioral cues and, you know, how alcohol can impair
22 somebody's judgment. And it's very important, you know,
23 with 1,400 team members we have on property. We do take
24 it very seriously. And it's one of those things that
25 in -- in all of our food and beverage establishments, we

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1 want to ensure that our guests that are dining, that are
2 coming to events they leave safe whether they're a hotel
3 guest, whether they're, you know, local, whether they're
4 not staying with us. And we want to make sure that they
5 get home safe, not just for them but for everybody else
6 that's -- that's out there on the road.

7 And then, lastly, for Exhibit -- the last
8 exhibit, we have just, you know, our pre-shifts. We make
9 sure that we go over checking IDs, ensuring that every bar
10 has the ID guidebook, and, you know, making sure that our
11 team knows that if -- if they don't -- they're not
12 confident that that guest is 21 or over, that they're not
13 gonna serve them.

14 MR. NAKAMURA: So you see there they've got
15 first -- the first thing is this jurisdiction specific
16 information. This is a test kind of thing that was given
17 to some of the employees, not every -- every area of the
18 hotel did this, but if you look at the Part 2, this is
19 really important, evaluating responses. And this is --
20 this is -- each -- each hotel staff member was met with.
21 You can see there's a -- like a sign-in sheet at the very
22 end where -- where all the employees have to sign and date
23 when they attended, you know, these -- these training
24 shows -- classes. And if you look at exhibit -- Part 2,
25 evaluating responses, this is really important because

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1 they did go over, you know, how you determine whether the
2 guest has been -- is intoxicated, how do you speak to that
3 guest, you know, to try to -- try to convince them that
4 they shouldn't be drinking.

5 MR. KOMINE: And then some additional steps
6 after we received the violation. We did, in the Banquets
7 department, pull all the team members together, explain to
8 them the severity of the violations that had occurred,
9 that were being presented to us, and made sure that they
10 -- they understood the severity of it and how it can
11 really affect our property and our livelihood. We, also,
12 made sure that -- in our pre-shift meetings, we continue
13 to talk about it. It's not just a onetime thing and we
14 forget, you know, we don't bring it up anymore. But it is
15 something that we take serious.

16 The Grand Wailea is a very big property and
17 we -- we do a lot of business there. We have a lot of
18 team members. And, again, that's -- that's their
19 livelihood. And we wanna ensure that we continue to
20 support the community, continue to keep these team members
21 employed, and continue to create great memories and
22 experiences for our guests that come in year after year.

23 CHAIR U`U: Thank you. Any more?

24 MR. NAKAMURA: Yeah, just a little bit more.
25 The other two violations that -- that we're discussing

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1 today, the first one was -- basically, relates to failure
2 to provide information. The investigative staff was --
3 had contact with the hotel regarding information
4 pertaining to the event as -- as mentioned by the
5 prosecutor. Unfortunately, that request was kind of
6 handed from person to person, it wasn't dealt with in a
7 very prompt manner. And now they've adopted procedures,
8 so that any inquiries from the Liquor Department are going
9 to be directed to the Hotel Manager, the Director of
10 Finance, or the Food and Beverage Director.

11 The second thing was the failure of an employee
12 to have an Employee Approved by the Director card, what we
13 call the Liquor Card. Todd Temperly is, we call, the
14 Hotel Manager of the hotel. He was unaware that he needed
15 to have this card, the manager's card. The rule is very
16 broad. You know, I think it's subject to some
17 interpretation, but, in any event, Todd has now taken the
18 test and he has his card. In addition to that, the
19 Director of Food and Beverage and all of the front office
20 managers, also, have their cards, so that, at any time,
21 there's always a person at the hotel who has his manager's
22 card. So I want -- Bart -- Bart just wanted to add a few
23 things to conclude.

24 CHAIR U`U: Please state your name for the
25 record.

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1 MR. SANTIAGO: Bart Santiago, Director of
2 Finance. We feel this is a very critical issue. The
3 Grand Wailea generates \$240 million in annual sales
4 revenue and we employ over 1,400 employees that depend on
5 the hotel, and various vendors that we partner with. For
6 the employees alone, we pay out \$50 million in wages. So
7 you can understand the -- the potential impact of losing
8 our -- our liquor license or impacting that negatively.
9 So we feel that this is a really important issue that we
10 need to resolve. And some of the training that Shane has
11 covered will, hopefully, address the issues, potential
12 issues down the road. Thank you.

13 CHAIR U`U: Thank you.

14 MR. NAKAMURA: So we'd be -- at this point, we
15 just want the -- the Board to understand that we do treat
16 this matter very seriously, very, very seriously. We
17 tried to implement -- we have training procedures. We
18 tried to implement additional training procedures to make
19 sure that this kind of violation doesn't happen again.
20 With that, be happy to answer any questions you might
21 have.

22 CHAIR U`U: At this time I'm gonna open up for
23 questions. Any questions from the Board?

24 MEMBER HELM: Yeah, Chair. Concerning the --
25 the setup to issue -- issue out those tickets for those

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1 drinks, is there a limit of those tickets a person can
2 purchase? That's my question.

3 MR. KOMINE: Right now, there isn't. Our -- our
4 cashier is the one that will be, also, observing and then
5 we have our beverage manager and our floor managers as
6 well who observe the guests that come up and purchase
7 tickets. So that's something that we're gonna definitely
8 look at with the amount of tickets that can be purchased.

9 MR. SANTIAGO: Can I add something else? We
10 have multiple cashier stations set up throughout the
11 event. So an individual could go to different stations.
12 That's very difficult to monitor the number of tickets
13 that are being purchased.

14 MEMBER HELM: Thank you.

15 CHAIR U`U: Any more questions?

16 MEMBER WILLIAMS: Chair. I'm just wondering, I
17 see in your exhibit the trainings. Are they done monthly,
18 quarterly, annually?

19 MR. KOMINE: So these we do twice a year. With
20 the trainings for TIPS, it's -- it's good for two years,
21 when you do take the exam. And that's being proctored by
22 somebody that's TIPS certified, is a trainer. But it's
23 something that we are implementing to do. You know, every
24 year, we want to have that. And even though it's a
25 two-year training, it should be done a lot more than that

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1 because, I mean, we're serving every single day. And it's
2 something that we want to make sure that our -- our
3 employees, it's always set in their minds of proper
4 serving and responsible serving.

5 MEMBER WILLIAMS: That's what I was wondering
6 because you have employees who get hired in between.

7 MR. KOMINE: Yes.

8 MEMBER WILLIAMS: And so they don't get the full
9 training until --

10 MR. KOMINE: They actually do. They do.

11 MEMBER WILLIAMS: Okay.

12 MR. KOMINE: So within their first 90 days,
13 every team member, it's on that checklist, they have to
14 take that TIPS training. So even if it's one or two
15 individuals who are hired in between that time, we are
16 always doing this, these trainings, for every new hire
17 class that comes in.

18 MEMBER WILLIAMS: Okay. All right. Thank you.

19 CHAIR U`U: Any more questions from the Board?

20 MEMBER DE MELLO: So if I get hired and I don't
21 complete the testing and I'm on the floor --

22 MR. KOMINE: You will not be on the floor until
23 you complete the testing, until you can provide your
24 liquor card.

25 MEMBER DE MELLO: Uh-huh.

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1 MR. KOMINE: And then we get the TIPS
2 certification within the first 90 days.

3 MEMBER DE MELLO: What is the reason for the
4 liquor card?

5 MR. KOMINE: The liquor card is on so everyone
6 understands the -- the rules in this county and they know
7 what -- what we represent and that we're gonna serve
8 properly. The TIPS training, on top of that, is going to
9 provide them with the knowledge, the skills, the
10 confidence to be able to serve responsibly, to understand
11 when a guest is getting to that point, to be able to make
12 reasonable efforts to either slow a guest down or cut them
13 off when they need to. But we feel that having both of
14 those and -- and for servers, bartenders and managers,
15 everyone should be certified for both.

16 MEMBER DE MELLO: Is that the same card that the
17 managers hold?

18 MR. KOMINE: The TIPS?

19 MEMBER DE MELLO: The liquor card.

20 MR. KOMINE: The liquor card, yes.

21 MEMBER DE MELLO: Okay. And what is the
22 ramification for the employees having this card? Can they
23 be disciplined at any time, like in this action what
24 happened to this employee -- I mean, this guest?

25 MR. KOMINE: As far as --

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1 MEMBER DE MELLO: Over-served.

2 MR. KOMINE: Over-serving, disciplinary action
3 coming back on them, if a guest is --

4 MEMBER DE MELLO: Because you're in the banquet
5 area, everything is portable.

6 MR. KOMINE: Yes. Absolutely.

7 MEMBER DE MELLO: They move all around.

8 MR. KOMINE: Uh-huh.

9 MEMBER DE MELLO: Guys are buying tickets here,
10 buying tickets here, there's no control, so you end up
11 over-pouring. And people, they drink at a table, they go
12 to the next table, they start talking, they get another
13 drink, and it's a continuous thing.

14 MR. KOMINE: Yes.

15 MEMBER DE MELLO: And I can see this happening.
16 Now, you have different servers --

17 MR. KOMINE: Yes.

18 MEMBER DE MELLO: -- serving. So how do you
19 guys act upon that?

20 MR. KOMINE: As far as -- so that's where the
21 TIPS training comes into play with the managers.

22 MR. NAKAMURA: Let -- I'm sorry. Let me
23 interrupt. So in this particular case, I think what
24 you're asking is whether or not the employee in question
25 was suspended or have any kind of --

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1 MEMBER DE MELLO: Yes.

2 MR. NAKAMURA: -- penalty.

3 MEMBER DE MELLO: Yes.

4 MR. NAKAMURA: Actually, they were -- because of
5 the way this bar's set up, they weren't able to identify
6 any particular employee that might have served the person
7 or -- nor were they actually able to identify this person
8 was there just because --

9 MEMBER DE MELLO: So there was no action
10 taken --

11 MR. NAKAMURA: No action taken.

12 MEMBER DE MELLO: -- on any of employees?

13 MR. NAKAMURA: No, no action taken in this
14 situation.

15 MEMBER DE MELLO: Okay.

16 CHAIR U`U: Any more questions by the Board?

17 MEMBER DE MELLO: Yeah, I have one. How many
18 employees do you have in your Department, servers?

19 MR. KOMINE: I have -- for servers, I have about
20 90.

21 MEMBER DE MELLO: How many bartenders?

22 MR. KOMINE: 15 bartenders.

23 MEMBER DE MELLO: How many cocktail waitress,
24 servers?

25 MR. KOMINE: 90.

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1 MEMBER DE MELLO: Servers and cocktail, the
2 same --

3 MR. KOMINE: They're the same, yes.

4 MEMBER DE MELLO: So everybody serve food, they
5 serve the cocktails, too?

6 MR. KOMINE: Yes. Correct.

7 MEMBER DE MELLO: Then you said you had cash --

8 MR. KOMINE: Cashiers.

9 MEMBER DE MELLO: Cashiers. So how many
10 cashiers do you have?

11 MR. KOMINE: We have, usually, it depends on how
12 big the event is, anywhere from one to two cashiers for
13 the cash bar events.

14 MEMBER DE MELLO: And it's based on the bar?

15 MR. KOMINE: Yes.

16 MEMBER DE MELLO: Okay.

17 CHAIR U`U: Any more questions by the Board?

18 MR. KUSHI: Mr. Chair?

19 CHAIR U`U: Go ahead.

20 MR. KUSHI: Couple questions. Maybe the
21 Department or Craig can chime in. My understanding of the
22 manager's card, this is the blue card, right? Right?
23 It's the blue card?

24 DIRECTOR MUKAI: Yeah, it's Approved by the
25 Director Card.

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1 MR. KUSHI: They call it a blue card. There's
2 only one card. There's no bartenders card, right?

3 DIRECTOR MUKAI: No.

4 MR. KUSHI: Everybody takes the same test?

5 DIRECTOR MUKAI: Yes.

6 MR. KUSHI: If you have eight servers -- or
7 eight stations -- if you have eight servers, not all of
8 them need to get a card as long as you have one manager
9 card there, right?

10 DIRECTOR MUKAI: As long as we have one person
11 Approved by the Director Card.

12 MR. KUSHI: Correct.

13 DIRECTOR MUKAI: If they have music and
14 entertainment, then they have to have --

15 MR. KUSHI: You need two.

16 DIRECTOR MUKAI: -- two.

17 MR. KUSHI: So your requirement of getting
18 everybody is above and beyond?

19 MR. KOMINE: Yes. And we -- we do that on
20 purpose. I've been on other islands where every server --
21 so Oahu, you have the yellow card and the blue card.

22 MR. KUSHI: What's a yellow card?

23 MR. KOMINE: It was for servers. On -- on Oahu,
24 you needed to have one per establishment. But here, with
25 the bartenders and the managers needing it, we wanted to

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1 ensure that the servers understand the -- the rules as
2 well and the laws here on -- in Maui County.

3 MR. KUSHI: So, Mr. Chair? Prosecutor, with
4 respect to Count 6, are you saying that -- it states the
5 date of June 27, 2017, but the event happened in April?

6 MR. KOMINE: April 15th.

7 MR. KUSHI: April 15th, the same year. So are
8 you saying that, on June 27, they didn't have a manager's
9 card or, at the event, they didn't have a manager's card?

10 MR. NAKAMURA: So maybe I can explain what I
11 think the charge is. So on that day, they determined that
12 Todd Temperly, who I mentioned was the -- is the hotel
13 manager of the hotel, didn't have a card. So they're
14 requiring --

15 MR. KUSHI: On June 27th?

16 MR. NAKAMURA: Yes. So they're requiring that,
17 you know -- and, again, the rule is subject to
18 interpretation, I think, but the requirement of the
19 Department is that the -- that people at the senior level
20 also have a card in addition to people on the floor, if
21 I'm not mistaken. So, you know, that's why the citation
22 occurred.

23 MR. KUSHI: I guess the question is, at the
24 Mayor's Ball, nobody had a manager's card?

25 MR. NAKAMURA: No.

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1 MR. KOMINE: We did, every bartender and manager
2 on the floor had.

3 MR. NAKAMURA: But they're required -- in
4 addition to that, they're requiring that the hotel manager
5 have a card. So -- which we didn't -- I mean, the hotel
6 manager didn't know, so -- you know, because there are
7 people below him had cards. But they want the hotel
8 manager to have a card. So now Mr. Temperly has a card.

9 MR. KUSHI: And on Count 4, what kind of
10 information did the Department ask for and why wasn't
11 it --

12 MR. NAKAMURA: I believe they were asking for
13 the guest list for the event.

14 MR. KUSHI: The guest list from the Mayor's
15 Ball?

16 MR. NAKAMURA: For the Mayor's Ball. I believe
17 that's what they were looking for. And that --
18 unfortunately, that request was kind of passed on from
19 person to person, so no response was given right away.

20 MR. KUSHI: Okay.

21 MEMBER WILLIAMS: One question real quick.
22 Going to a lot of these events. What are you guys
23 thinking about doing as far as -- you can't really fix it,
24 but help control this better? I know I have bought drinks
25 for a whole table, so you bought, you know, 12 tickets,

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1 but it's very easy for someone to use all 12 tickets.
2 So -- and I know for you guys, it's a gray area, because
3 you want to help the event, but you want to make sure you
4 have controls, too. What are you looking at doing in the
5 future to maybe control that, like different color
6 tickets.

7 MR. KOMINE: Well, we have -- we do have
8 different color tickets as far as each different type of
9 alcohol, beer, wine, liquor, nonalcoholic. But, again,
10 with TIPS training, it's a team effort because a guest can
11 order from the server, they can go up to a bar if there
12 are, you know, open bar or -- or cash bars. And really
13 it's -- it's -- the -- the TIPS training is where it
14 really comes into play with looking for those signs of
15 intoxication, guests only being able to take two drinks at
16 a time. We've had multiple times where guests tried to
17 order a whole round for the table, and our bartenders will
18 let them know that I do apologize, I can give you two
19 right now, everybody else can come up here if they want to
20 grab it or I can walk it and I can carry it to the table
21 and -- and present it to each guest that you're purchasing
22 for.

23 MEMBER WILLIAMS: There's one thing you might
24 want to think about doing, is having a different color
25 ticket for each bar. So when you -- if you order from one

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1 cashier, you have an assigned bar that you go to.

2 MR. KOMINE: That's a great idea.

3 MEMBER WILLIAMS: Just so someone can -- can be
4 able to watch and monitor and -- because, again, you're
5 only in front of them for a few seconds and you're not --
6 you know, so I -- I know how easy it is to, like you said,
7 go to get a drink, put it done, go to another table,
8 another drink, and -- and just if you can help control it
9 better, it would be great.

10 MR. KOMINE: Thank you.

11 MEMBER HELM: I got another question. How many
12 people attended this -- this particular event? What was
13 the amount of people? And how many servers did you have?

14 MR. NAKAMURA: I was at that event. I -- I
15 think there were probably 400.

16 MS. FUJIWARA: 400.

17 MEMBER HELM: So based on the 400, so you had --
18 do you determine prior to the event how many servers
19 you're going to have?

20 MR. KOMINE: Yes, we usually do --

21 MEMBER HELM: So you --

22 MR. KOMINE: -- one -- one server for
23 six tables. Or five tables. Sorry.

24 MEMBER HELM: Okay. So how much people on one
25 table?

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1 MR. KOMINE: So we have one server that over --
2 that oversees five tables. They have a five-table
3 section.

4 MR. SANTIAGO: 10 per table.

5 MR. KOMINE: 10 per table. Sorry.

6 MR. SANTIAGO: So that's per our CBA. It's --
7 one per 50 is written into our union agreement, collective
8 bargaining agreement, our union contract.

9 MEMBER HELM: So you said it's a 400 event --
10 400 people attended this event. Which is -- how big can
11 you go when you do have events like this? How many --
12 how -- how big of a crowd of people?

13 MR. KOMINE: I mean, we can go up to, you know,
14 1,200 in the ballroom.

15 MEMBER HELM: That's like the capacity?

16 MR. KOMINE: At capacity.

17 MEMBER HELM: Okay. Yeah. Thank you.

18 CHAIR U`U: Any more questions? Seeing none,
19 I'm gonna ask for the Director's argument as to penalty.

20 MR. HANANO: Yes. Thank you, Chair. The
21 license for this licensee was issued back in April of
22 2006. There are no -- there are no prior convictions of
23 any kind. In light of that, we're recommending, in Count
24 1, a \$2,000 fine with \$1,000 suspended on the condition
25 that there are no further convictions for the same offense

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1 in a one-year period; Count 4, a \$500 fine; and Count 6, a
2 \$100 fine.

3 CHAIR U`U: Sorry. Count 6, \$100 fine?

4 MR. HANANO: \$100 fine.

5 CHAIR U`U: The Board will take this matter into
6 consideration. I will entertain a motion to go into
7 deliberation. All those in favor?

8 (Response.)

9 CHAIR U`U: Opposed?

10 (No response.)

11 CHAIR U`U: Motion carried.

12 (Deliberation, 9:28 a.m. to 9:48 a.m.)

13 CHAIR U`U: After deliberation by this Board, I
14 will now go over the fines for each count. For Count 1, a
15 \$2,000 fine with \$1,000 suspended provided there is no
16 convictions for the same offense for a period of one year;
17 for Count 4, a \$500 fine; and for Count 6, \$100 fine with
18 \$100 being suspended provided there is no conviction of
19 the same offense for the period of one year. The
20 Department would notify you when payment is due. Thank
21 you for your time.

22 MR. NAKAMURA: Thank you very much for your
23 time. Thank you.

24 CHAIR U`U: We will now hear Complaint and
25 Accusation Number 2018-09 against Tante's Restaurant,

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1 Incorporated doing business as Tante's Island Cuisine.
2 Will the Respondent or its representative please step
3 forward and state your name and in what capacity your
4 represent the Respondent?

5 MR. URBAN: I'm Tante Urban, President of
6 Tante's Island Cuisine.

7 CHAIR U`U: Say that -- state your name again.

8 MR. URBAN: I'm Tante Urban, President of
9 Tante's Island Cuisine.

10 CHAIR U`U: Thank you, Tante. At this time, you
11 have the option of having the charges publicly read or you
12 can waive this reading. What is your preference?

13 MR. URBAN: I will plead guilty.

14 CHAIR U`U: Clarification -- just for
15 clarification. At this time we can publicly read -- at
16 this time you have the option of having your charges read
17 to you or you can waive the reading. What will be your
18 preference? We can have someone read to you the charges
19 against you or you can waive the reading.

20 MR. URBAN: We can waive the reading.

21 CHAIR U`U: We can waive the reading. Okay.
22 Mr. Tante, for the record, do you represent the Respondent
23 involved? Are you representing yourself, Mr. Tante?

24 MR. URBAN: Yeah.

25 CHAIR U`U: Do you have legal counsel?

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1 MR. URBAN: No.

2 CHAIR U`U: Do you understand that you have the
3 right to have your legal counsel?

4 MR. URBAN: Yes.

5 CHAIR U`U: Do you understand the charges
6 against you?

7 MR. URBAN: Yes.

8 CHAIR U`U: What is your plea to each count?

9 MR. URBAN: I plead guilty.

10 CHAIR U`U: You mean no contest?

11 MR. URBAN: No contest.

12 CHAIR U`U: Thank you. Do you understand the
13 violations the Department of Liquor Control alleges
14 against you?

15 MR. URBAN: Yes.

16 CHAIR U`U: Do you understand that you have the
17 right to plead not guilty?

18 MR. URBAN: Yes.

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

23 MR. URBAN: Yes.

24 CHAIR U`U: Is your plea of no contest voluntary
25 and not the result of force, threats or of promises apart

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1 from any plea agreement?

2 MR. URBAN: Voluntary.

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

9 MR. URBAN: Yes.

10 CHAIR U`U: Do you still wish to plead no
11 contest?

12 MR. URBAN: Yes.

13 CHAIR U`U: The Board hereby finds that the
14 licensee has entered a knowing and voluntary plea of no
15 contest. The Board accepts your plea and find you --
16 finds you guilty of Counts 1 and 2 reflected in Complaint
17 and Accusation Number 2018-09. Will the Department
18 present a summary of the case?

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

20 This case involved a minor decoy operation which
21 took place on Friday, January 26, 2018. The Minor Decoy
22 Team was comprised of Liquor Control Officers Kayle
23 Matsushima, Cullen Kawano, Trainees Andrew Carbonel and
24 Salika Khangsengsing, Marc Velasquez, MPD Officers Jeremy
25 Pallone-De La Torre, Nephi Laga, and a male minor decoy.

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1 The Minor Decoy Checklist was reviewed with the
2 minor decoy informing him of the requirements and rules
3 pertaining to minor decoy operations. The rules required,
4 among other things, that the minor decoy carry his valid
5 Hawaii driver's license card on his person at all times,
6 that he answer any questions about his age truthfully and
7 that he present his valid Hawaii driver's license when
8 asked by any employee of the licensed premises to do so.
9 The minor decoy reviewed and signed the Minor Decoy
10 Checklist indicating he understood what was read to him.
11 The minor decoy's Hawaii driver's license card was printed
12 in the vertical format, indicated that the minor decoy
13 became 21 years of age on 11-21-2020. As part of the
14 operation, the minor decoy was provided with a \$20 bill to
15 use as buy money.

16 On January 26, 2018, at about 7:55 p.m., officer
17 entered the Tante's Island Cuisine located at 100 West
18 Kaahumanu Avenue, Kahului, Maui, Hawaii. The minor decoy
19 entered the premises about one minute later. The minor
20 decoy then walked to a table to the right of the entrance,
21 sat down and waited for service. The minor decoy then
22 ordered a Heineken beer from the female server, later
23 identified as Geraldine Soriano. After ordering the
24 Heineken beer from Soriano, Soriano immediately asked the
25 minor decoy for ID. In response, the minor decoy handed

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1 Soriano his valid Hawaii driver's license. Soriano
2 checked the license for a few seconds and handed it back
3 to the minor decoy. Soriano then walked away, then later
4 returned with a 12-ounce bottle of Heineken beer, served
5 it to the minor decoy by placing it in front of the minor
6 decoy. After Soriano served the Heineken bottle of beer,
7 Soriano walked away to attend to other patrons. Following
8 that, the minor decoy took possession of the Heineken
9 bottle of beer and signaled Officer De La Torre. Officer
10 then walked over to the minor decoy, took possession of
11 the Heineken beer and the minor decoy exited the premises
12 at about 8:02 p.m.

13 As part of the investigation, Geraldine Soriano
14 was interviewed, at which time she provided the following
15 statement, in pertinent part: Stated that she did check
16 the patron's ID and the year of birth was 1996, and she
17 served the bottle of Heineken beer to him. Actual date of
18 birth was 1999.

19 As part of the investigation, the manager on
20 duty, Leilani Villalon Tacdol was interviewed, at which
21 time she provided the following statement: Stated that
22 Tante's Island Cuisine employees received a pre-shift
23 meeting daily where employees are reminded to look at the
24 patrons and ask for ID and ask those looking young for
25 their age.

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1 Nothing further.

2 CHAIR U`U: Any questions by the Board? Seeing
3 none, Mr. Tante, you now have the opportunity to make a
4 statement regarding this case. You may also inform the
5 Board of any mitigating circumstances which may or may not
6 apply to sentencing.

7 MR. URBAN: As was mentioned, she checked the ID
8 and she thought it was '96, but it was 1999. So that was
9 a mistake.

10 CHAIR U`U: Any questions by the Board?

11 MEMBER HELM: So, Tante, what are you -- what
12 did you do with your employee? What's the person's
13 status? Did you suspend that person or what?

14 MR. URBAN: No, we did not suspend the person.
15 We just tell 'em to be more thorough in checking those
16 numbers. And -- and, also, we put in a bigger sign, you
17 know, to make sure you check IDs, but I think that the
18 fault there was the inverted number, 6 and 9.

19 MEMBER HELM: How long has this person worked
20 for you?

21 MR. URBAN: It's been a while.

22 CHAIR U`U: Any more questions by the Board? I
23 got a question. What -- what type of training do your
24 staff do? Is there any training that you guys do?

25 MR. URBAN: Well, just keep reminding them, you

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1 know, that keep checking ID, you know, and -- and, you
2 know, look at the numbers properly.

3 CHAIR U`U: Okay. Okay. Thank you. Well, at
4 this time we'll take the Director's argument as to a
5 penalty.

6 MR. HANANO: Yes. Thank you. The original
7 license for this licensee was issued back in August of
8 2013. There are no prior convictions. In light of that,
9 we're recommending, in Count 1, a \$2,000 fine with 1,000
10 suspended on the condition that there's no further
11 convictions for the same offense within a one-year period,
12 and, in Count 2, a \$500 fine.

13 CHAIR U`U: The Board will take this matter into
14 consideration. I will entertain a motion to go into
15 deliberation.

16 VICE-CHAIR UEOKA: So moved.

17 MEMBER WILLIAMS: Second.

18 CHAIR U`U: All those in favor, say "aye."

19 (Response.)

20 CHAIR U`U: Any oppose?

21 (No response.)

22 CHAIR U`U: Motion carried.

23 (Deliberation, 9:59 a.m. to 10:07 a.m.)

24 CHAIR U`U: Just quick question. Peter, just
25 wanted to make clarification, was the server ever charged

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1 in this case with a --

2 MR. HANANO: That, I don't know. I didn't check
3 on that, but probably.

4 CHAIR U`U: Probably.

5 MR. HANANO: Yeah.

6 CHAIR U`U: Okay. Okay. Okay. After
7 deliberation by this Board, I wanted to let you know,
8 Mr. Tante, that the Board is a little disappointed in your
9 actions in training. And I don't -- I don't think you see
10 the severity or the potential that could cause harm to you
11 and your business and the people of Maui County. So I
12 really hope you take this into consideration and
13 understand the severity of the potentials that you have,
14 and the outcome that might be one day that you come before
15 the Board. So this is your first time to the Board,
16 hopefully it's your last, is what I'm hoping for. Okay?

17 MR. URBAN: Yes. Thank you.

18 CHAIR U`U: Thank you. I will now go over the
19 fines. The Board has assessed a penalty of \$2,000 for
20 Count 1, with \$1,000 being suspended provided there is no
21 conviction for the same offense for a period of one year.
22 For Count 2, the Board has assessed a penalty, a fine of
23 \$500. Thank you for your time.

24 MR. URBAN: So does that mean --

25 CHAIR U`U: You can take it up with the

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1 Department.

2 MEMBER DE MELLO: Department.

3 MR. URBAN: All right.

4 CHAIR U`U: They will notify you when the fines
5 are due.

6 MR. URBAN: Thank you.

7 CHAIR U`U: Thank you, Mr. Tante.

8 We will now hear Complaint and Accusation Number
9 28-15 against Mulligan's on the Blue, LLC doing business
10 as Mulligan's on the Blue. Will the Respondent or its
11 representative please step forward and state your name and
12 in what capacity you represent the Respondent?

13 MR. O'DWYER: Good morning, everybody. My name
14 is Michael O'Dwyer and I'm the owner of Mulligan's on the
15 Blue.

16 CHAIR U`U: At this time you have the option of
17 having the charges publicly read or can you waive the
18 reading. What is your preference?

19 MR. O'DWYER: I prefer to waive the reading, if
20 possible, please.

21 CHAIR U`U: Okay. For the record, what is your
22 name again, Mr. --

23 VICE-CHAIR UEOKA: Michael.

24 CHAIR U`U: Michael --

25 MR. O'DWYER: Michael Ronan O'Dwyer.

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1 CHAIR U`U: Michael Rowan O'Dwyer.

2 MR. O'DWYER: Ronan.

3 CHAIR U`U: Do you represent the Respondent
4 involved?

5 MR. O'DWYER: Yes, I do.

6 CHAIR U`U: Do you have legal counsel?

7 MR. O'DWYER: No, I don't.

8 CHAIR U`U: Do you understand that you have the
9 right to have your legal counsel present?

10 MR. O'DWYER: Yes, I do.

11 CHAIR U`U: Do you understand the charges
12 against you?

13 MR. O'DWYER: Unfortunately, yes, I do.

14 CHAIR U`U: What is your plea to each count?

15 MR. O'DWYER: After conversating with the Deputy
16 Prosecutor, Mr. Hanano, no contest plea --

17 CHAIR U`U: Okay.

18 MR. O'DWYER: -- in certain counts.

19 CHAIR U`U: Mr. Hanano, can you clarify again
20 the counts to us, once again, please?

21 MR. HANANO: Yes, Chair. Pursuant to a plea
22 agreement, Respondent/Licensee is pleading no contest to
23 Count 1, 2 and 3. Count 4 will be dismissed with
24 prejudice pursuant to the plea agreement.

25 CHAIR U`U: Thank you for your clarification.

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1 Do you understand -- do you understand the violations the
2 Department of Liquor Control alleges against you?

3 MR. O'DWYER: Yes, I do.

4 CHAIR U`U: Do you understand that you have the
5 right to plead not guilty?

6 MR. O'DWYER: Yes, I do.

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

11 MR. O'DWYER: Yes.

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

15 MR. O'DWYER: Yes, it is.

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

22 MR. O'DWYER: Yes, I do.

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

25 MR. O'DWYER: Yes.

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1 CHAIR U`U: The Board hereby finds you -- finds
2 that the licensee has entered a knowing and voluntary plea
3 of no contest. The Board accepts your plea and finds you
4 guilty of Counts 1, 2 and 3 reflected in Complaint and
5 Accusation Number 2018-15. Will the Department present a
6 summary of the case?

7 MR. HANANO: Yes, Chair. Thank you. On
8 Saturday, September 30th, 2017, at about 8:53 p.m., Liquor
9 Control Officers Robert Shiigi and Cielo Molina arrived at
10 the premises of Mulligan's on the Blue, located at 100
11 Kaukahi Street, Wailea, Maui, Hawaii, to conduct an
12 inspection. At that time, there was a special event
13 entitled Zeptember VIII. Upon arrival, Liquor Control
14 Officer Molina spoke with the on-duty manager, who
15 informed them that they had 73 employees working,
16 including security, bartenders, servers, barbacks, food
17 runners, managers and musicians. According to the
18 manager, they were expecting 650-plus patrons throughout
19 the night based upon ticket sales. Upon request, the
20 manager was able to produce the permit for the special
21 event being held that night.

22 During the inspection, Liquor Control officers
23 found that walking throughout the premises proved
24 difficult due to the congested and blocked walkways on the
25 outer lanai area and around the bar counter area inside.

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1 While positioning themselves at the doorway
2 fronting the restrooms, several patrons were observed
3 entering and exiting the male and female restrooms while
4 holding bottles of beer. Also, several females waiting in
5 line to use the restrooms were observed drinking just
6 within the entryway to the restrooms.

7 While Liquor Control Officer Shiigi stood
8 outside on the lanai area of the premises, facing the
9 parking lot, a patron was observed smoking an electronic
10 cigarette within the extension area of the premises of the
11 Blue Clubhouse lawn.

12 Also, as part of the investigation, photographs
13 were taken of the observed violations. And a notice of
14 violation was subsequently issued at a later date.

15 That's all I have, Chair.

16 CHAIR U`U: Thank you, Peter. Any questions by
17 the Board?

18 MEMBER WILLIAMS: Mr. -- oh, (inaudible).

19 CHAIR U`U: No. Questions.

20 MEMBER WILLIAMS: To Mr. O'Dwyer or --

21 CHAIR U`U: No, to Peter.

22 MEMBER WILLIAMS: (Inaudible).

23 CHAIR U`U: Okay.

24 MEMBER WILLIAMS: Well, just the walkway from
25 the restaurant to the -- to the bathrooms, is there -- you

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1 know, can you explain, is there a gray area or it's pretty
2 clear that -- that, you know, they should not be in line
3 with a -- with a -- with a drink? Does that make sense?

4 (Inaudible) a line, in line --

5 MR. HANANO: I think it's taking it into the
6 restrooms.

7 MEMBER WILLIAMS: Oh, okay. Because it was in
8 the walkway.

9 MR. HANANO: Right. Yeah, I think while waiting
10 to get in.

11 MEMBER WILLIAMS: And so -- and so is it a
12 violation to be -- to have a drink before you're in the
13 restroom or only when you're in the restroom?

14 MR. HANANO: I think taking it in. Right?

15 DIRECTOR MUKAI: Yeah.

16 MR. HANANO: I think taking it into the restroom
17 is a violation.

18 MEMBER WILLIAMS: Okay. But they weren't --
19 they weren't in the restroom, then, or were they?

20 MR. HANANO: Some of them were and some of them
21 were --

22 MEMBER WILLIAMS: Okay.

23 MR. HANANO: -- were just outside.

24 MEMBER WILLIAMS: Okay.

25 MR. HANANO: I just threw that in because --

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1 MEMBER WILLIAMS: Okay. I just wasn't sure, you
2 know, it was -- it was clear on --

3 MR. HANANO: Right.

4 MEMBER WILLIAMS: (Inaudible).

5 MR. HANANO: Well, I think the inference is if
6 you're in line, holding your drink, you're going to go
7 into the restroom with -- with it.

8 MEMBER WILLIAMS: Okay.

9 MR. HANANO: Which, I think, is -- you know, may
10 lead to, you know, a violation. But in this case there
11 was -- there was both circumstances.

12 MEMBER WILLIAMS: Okay.

13 MR. KUSHI: Questions for the prosecutor.
14 Peter, Count 3, does HRS Section 328J-3(4), does that
15 cover E-cigarettes?

16 MR. HANANO: Yes, it does.

17 MR. KUSHI: Okay.

18 CHAIR U`U: Other questions? Michael, you have
19 the opportunity to make a statement regarding this case,
20 you may, also, inform the Board of any mitigating
21 circumstances which may or may not apply to sentencing.

22 MR. O'DWYER: All right. I did a little report
23 and I typed it up. And if you don't mind, I can pass it
24 out and we go through it just a little bit.

25 CHAIR U`U: Okay.

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1 MR. O'DWYER: I'm not here to -- to
2 cross-examine anybody -- I need one copy for myself -- but
3 there was a couple of mitigating circumstances. The
4 situation was a weird situation. And I don't think -- is
5 there any of the investigators here today? I thought
6 there might be. I know because I pleaded no contest, I
7 expected at least one of the -- are they not in the
8 building?

9 MR. HANANO: I didn't see them here, but --

10 MR. O'DWYER: Would it be normal that they
11 should be here, or no? If it's --

12 MR. HANANO: Not if it's not contested.

13 MR. O'DWYER: Okay. Because the only thing
14 that's missing from the report, and the report's pretty
15 accurate, it started to rain about 8:25, 8:30 that night.
16 And even in the pictures of the people standing in line,
17 there's no pictures of anybody taking beer into the
18 toilets. The girls' hair are wet. There was water on the
19 ground. So there was a lot going on. So these people --
20 the inspectors did show up at a crucial time in the
21 running of our business.

22 And I have been before the Adjudication Board
23 about 18 months ago. And we had situation. And the
24 biggest one is the crowding of the aisleways.

25 So I documented some things here that I felt

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1 might be relevant to what happened that night.

2 One of the really weirdest things was the fatal
3 accident in Kaanapali. I don't know if anybody remembers
4 that. On that day, it happened at 6:53 outside Lahaina,
5 by Roundtable. An Uber driver was picking people up. I
6 don't know if anybody remembers. Four people died
7 (inaudible). Well, some of our security people were due
8 to come on duty at 8:00 that night. Of course, all the
9 roads were closed on that side.

10 And I did bring with me Bill Maile who is in
11 charge of security. He's probably been doing security
12 for -- may I bring him up or --

13 CHAIR U`U: Sure.

14 MR. O'DWYER: We haven't rehearsed this. But
15 how long have you been doing security at Mulligan's?

16 CHAIR U`U: Quick one. Can you please state
17 your name for the record, please?

18 MR. MAILE: First name is Ami, last name is
19 Maile.

20 CHAIR U`U: Go ahead.

21 MR. MAILE: I've been doing security for Mike
22 for seven years.

23 MR. O'DWYER: So Ami's totally in control of
24 security, takes care of everything. We had 16 security
25 scheduled to do Zeptember. I brought him along today for

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1 two reasons. First, to really interact here and see
2 what's going on. And maybe it's something that as we get
3 out of here and as a community, that security people who
4 do work on premises, maybe it's possible they -- mandatory
5 that they should have a liquor card as well. It's not the
6 most difficult thing to get in the world, but after
7 getting up early in the morning, coming in here, like I
8 did last week, and doing four hours of the class, you
9 might have a better understanding what's required and why
10 I'm here today and what fines or et cetera that I'll have
11 to pay.

12 So on top of that, Ami put out his knee. What
13 did you do?

14 MR. MAILE: I was injured two days before, so --

15 MR. O'DWYER: So he wasn't present at the
16 function. We did have -- we always stagger security for
17 money-saving and, also, we like to bring a lot of security
18 in towards the end, to make sure everybody leaves safely
19 and so forth. So we were short security on the night
20 because of a situation like that, which was very ironic.
21 And on top of that, it started raining probably 8:30 and
22 it rained for most of the night after that.

23 We have a permit, which we only get once a year
24 now. Before, we would get 12 or 12 permits a year to do
25 these functions. The only function we really do hard and

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1 good is the Zeptember. So we have a occupancy by the Fire
2 Department level of 999 people.

3 We probably had a little over 600 people that
4 night, but, once it rained, I can honestly say that most
5 people came inwards, shelter from the building.

6 I did put a little floor plan on the back. And
7 where you -- on the last page there -- has everybody had a
8 chance to go through it or -- the notes I made? I -- I
9 can read out the notes. I don't want to save you the
10 time, but maybe, in deliberation, if you'll have a look at
11 what I would consider mitigating circumstances.

12 The whole area here on the back page is
13 Mulligan's on the Blue. The outside area is the extension
14 of premises. Where the dance floor is situated, that is
15 the restaurant area as well. And we made a house rule not
16 to let any alcohol inside there. And it even shows in the
17 pictures.

18 So when the rain started, it was all hands on
19 deck. And our main priority was to keep the area safe and
20 get the water off the decks because there was water coming
21 down. It was still raining when the investigators came.

22 And it didn't say that in the thing, which is
23 neither here nor there, but the situation with the vape, I
24 don't even know if security people are aware of that rule.
25 And I did speak to the prosecutor. And I wasn't 100

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1 percent sure. It doesn't come up in our training for a
2 liquor card. But it's very easy to smuggle in a vape, a
3 vapor. I don't do it myself, but I've seen people even on
4 planes with it. So I know with a crowd of 600 people, it
5 is -- we would easily find somebody who was smoking or
6 smoke. But the picture shows this guy, and it's
7 definitely with a vape. And that's something we're not
8 properly trained on.

9 And I'm not sure, Mr. Hanano, when this came
10 into play, or it's been a gray area for a couple of years.
11 I don't know how long it's been in play (inaudible) and if
12 it's a County rule or it's a Liquor Commission rule. So I
13 don't know if you can answer that for me.

14 MR. HANANO: If I may respond, Chair?

15 CHAIR U`U: Yes, go ahead.

16 MR. HANANO: It's, actually, in the HRS. I
17 can't exactly remember what year it was, but, within the
18 past five years, it was added to the definition of
19 smoking, basically, you know, using a electronic
20 cigarette. And I think it's under that section that I --
21 that I quoted in the --

22 MR. O'DWYER: Looking at the pictures, the vape
23 is very close to the smoking area. It's probably within
24 three feet where somebody should be smoking.

25 Aisles, I don't see any more pictures. What I

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1 do see, I see adequate walkway. It's the bar on the
2 left-hand side, I don't know if anybody is on the picture
3 page yet, on the back here. The picture of the drinks, I
4 explained to the prosecutor --

5 MEMBER HELM: We don't have pictures.

6 MR. O'DWYER: Oh. Sorry

7 MR. HANANO: Yeah, I don't think they have the
8 pictures.

9 MR. O'DWYER: You don't have these?

10 CHAIR U`U: We don't.

11 MR. O'DWYER: Okay. Should we --

12 MR. HANANO: You can admit it, if you want to,
13 for the Members to look at.

14 MR. O'DWYER: It kind of -- it's part and part
15 of the parcel. It can go either way for me. One of 'em
16 would be proof that it was raining because all the girls'
17 hairs are wet. They're all standing in line at the
18 bathroom and they're standing underneath the eaves on
19 their way into the toilet. But I'm not here to -- to go
20 back and forth, that's why I plead not guilty. I'm here
21 to admit to what we did.

22 We did a Zeptember previously without any single
23 incident whatsoever.

24 We've added barriers along the walkways, actual
25 crowd control barriers that we use to define the extension

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1 of premises, which allow people to walk clearly through.
2 The picture that crowding the aisleway is by the bar. And
3 maybe it's one that's important because I honestly think
4 that's the biggest issue that we have when we have large
5 numbers of people at Mulligan's. And this is the one that
6 keeps recurring.

7 If you look at our history, we don't have the
8 luxury of changing our liquor license or so forth. We
9 have probably 30 employees as opposed to 1,400 employees.
10 Our labor per year might be \$350,000. The previous hotel
11 group, you know, have their liquor license going back to
12 2006. I remember how it was before 2006. And that's
13 okay, but I have never changed my liquor license. I have
14 never tried to avoid like people have been allowed up to
15 two years ago, which I think the prosecutor will agree.
16 I've never shied away from the fact that we haven't been
17 100 percent in control of our property, but we've made
18 huge strides to come forward. And I don't know if it
19 happens, but if Mr. Hanano gets to read off my rap sheet
20 going back over the years, some things are repetitive. We
21 have never over-served somebody. We've never been caught
22 in a sting. Considering the amount of people that we have
23 brought in and out of the restaurant.

24 Since probably September last year, we close our
25 restaurant at 10:00 every night except for Friday and

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1 Saturday nights. So we do not encourage late-night
2 activity. And our biggest concert is once a year in
3 September. St. Patrick's Day is limited and it's within
4 the bounds of a normal restaurant. So we don't even go to
5 the trouble of going after this license. It's kind of a
6 big deal and probably makes my whole summer, having 700
7 people at Mulligan's for six or eight hours.

8 I will, if you don't mind, just pass around a
9 picture for the aisleways, which I know the three things
10 that we are being violated for, this is definitely the
11 most serious one. And I did promise the last time I was
12 here, 18 months ago, that I wouldn't be back within a
13 year, which is neither here nor there, but that was part
14 of the agreement because I got a little bit of the fine
15 suspended.

16 I do expect you to fine me, but I would ask that
17 you would be a bit lenient. Business has been a bit
18 difficult lately. Our main form of business, about \$1
19 million a year, would be the Willy K dinner show. And as
20 everybody knows the circumstances there, we don't have
21 that business anymore. So staying in business is a
22 priority for me. Thank you.

23 CHAIR U`U: Thank you. Is there any questions
24 by Members of the Board? Any questions? Seeing none, I'm
25 going to ask for the Director's argument as to penalty.

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1 MR. HANANO: Yes. Thank you, Chair. Original
2 license was issued back in October of 2001. Like
3 Mr. O'Dwyer stated, there are prior convictions on the
4 record, the most recent were in 2016. And I don't know if
5 the Board will have a chance to look at the history, but,
6 like Mr. O'Dwyer said, there are prior convictions
7 involving similar or same, I'll say, type of offenses that
8 we have on the calendar today. And especially in Count 1,
9 you know, the congested aisles and walkways, there's, you
10 know, priors on that. I think there was one overservice
11 way back in 2002. And as far as I can tell, Mr. O'Dwyer
12 is correct, there is no overservice after that or selling
13 to a minor, which I think is pretty significant, you know,
14 based on the history and the amount of events he has.
15 But -- but having said that, there are other issues such
16 as the crowded walkways and things like that. And so in
17 Count 1, because of the past history, we're recommending a
18 \$1,500 fine; in Count 2, a \$1,000 fine; and Count 3, a
19 \$1,000 fine.

20 MEMBER HELM: What was Count 3?

21 MR. HANANO: \$1,000.

22 CHAIR U`U: So for clarification, Count 1 is
23 1,500; Count 2, 1,000; and Count 3, also, 1,000.

24 MR. HANANO: That's correct.

25 CHAIR U`U: None of them having the potential to

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1 be suspended?

2 MR. HANANO: Yes, that would be our
3 recommendation.

4 CHAIR U`U: Okay. The Board will take this
5 matter into consideration. I will entertain a motion to
6 go into deliberation.

7 MEMBER HELM: So moved.

8 MEMBER WILLIAMS: Second.

9 CHAIR U`U: All those in favor, say "aye."

10 (Response.)

11 CHAIR U`U: Opposed?

12 (No response.)

13 (Executive Session, 10:28 a.m. to 10:42 a.m.)

14 CHAIR U`U: After deliberation by this Board, I
15 will now go over the fines for each count. On Count 1,
16 \$1,500 fine; on Count 2, \$1,000 fine; and on Count 3,
17 \$1,000 fine. Count 1 was \$1,500. The Department will
18 notify you when payment is due.

19 MR. O'DWYER: No -- no half suspended --

20 CHAIR U`U: You know -- you know --

21 MR. O'DWYER: -- if I don't behave?

22 CHAIR U`U: We -- we deliberated for a while, it
23 went back and forth, but that was what the --

24 MR. O'DWYER: The -- the aisleways, I
25 understand, because that was a genuine mistake.

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1 CHAIR U`U: We just hope not to see you again,
2 my friend.

3 MR. O'DWYER: Me, too.

4 CHAIR U`U: Okay.

5 MR. O'DWYER: It's a lot of money.

6 CHAIR U`U: Yes. Have a good day. Thank you.
7 Anything at this time, Director?

8 DIRECTOR MUKAI: Not at this time.

9 CHAIR U`U: At this time, I would like to make
10 mention of our two newest Members. I think I forgot it at
11 the last meeting. Chuck and Herman Nascimento. You guys
12 want to say something about yourselves? Chuck. Johnny on
13 the spot.

14 MEMBER BERGSON: Johnny on the spot. Just that
15 I, you know, been living here on Maui for 28 years. And I
16 have a business, Pacific Media Group is my -- my company.
17 And, you know, I feel strongly about trying to make our
18 community a better community and which is why I'm
19 interested in supporting and volunteering and filling such
20 a role. Thanks.

21 CHAIR U`U: Herman.

22 MEMBER NASCIMENTO: I was born and raised on
23 Maui. After the service, served four years, started
24 construction in '61, retired in 2005. Carpenter and
25 eventually business agent and retired as a senior rep for

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1 the Carpenters Union.

2 CHAIR U`U: He was my boss, too.

3 MEMBER HELM: Do you know this --

4 MEMBER NASCIMENTO: Yeah.

5 CHAIR U`U: Good behavior, yeah.

6 MEMBER HELM: You train this guy.

7 CHAIR U`U: I like to make -- like to make a
8 motion.

9 MR. HANANO: Chair, if I may, in -- in relation
10 to the Board's question about the Tante's case --

11 CHAIR U`U: Okay.

12 MR. HANANO: -- I did, during the break, have a
13 chance to look up the record. And Ms. Soriano was charged
14 and eventually received what is called a DANC plea, where
15 you plead no contest on the condition -- and -- and you
16 can have it erased if you follow, you know, certain
17 conditions. And that occurred on March 8, 2018.

18 CHAIR U`U: Okay.

19 MR. KUSHI: You know, Mr. Chair, Peter, I think
20 it would help the Board in its deliberations if you guys
21 did charge the server.

22 MR. HANANO: Yeah.

23 MR. KUSHI: The licensee is one thing, but the
24 server is another.

25 MR. HANANO: I think -- as a matter of course, I

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1 think they're arrested and a case is generated. And so
2 our office would, you know, look at it. I'm not saying
3 we're charging in every case, but, you know, a case is
4 generated, sent up to our office, and we'll look at it to
5 see if there's any charges.

6 And in the future, you know, I'm gonna try to
7 make it a policy to inform the Board if there is any
8 related charges.

9 VICE-CHAIR UEOKA: Thank you.

10 CHAIR U`U: Thank you, Peter. Call for a motion
11 to adjourn.

12 MEMBER WILLIAMS: Motion.

13 CHAIR U`U: Second?

14 VICE-CHAIR UEOKA: Second.

15 CHAIR U`U: All those in favor, say "aye."

16 (Response.)

17 (Meeting adjourned, 10:46 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 2nd day of June, 2018.

Tonya McDade
Certified Shorthand Reporter #447
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