

CITY OF UNION CITY
HUDSON COUNTY, NEW JERSEY
BOARD OF COMMISSIONERS

REGULAR MEETING :
: TRANSCRIPT OF RECORDED
: PROCEEDINGS
:

William V. Musto
Cultural Center
420 15th Street
Union City, New Jersey

Friday, July 1, 2016
Commencing at 3:30 p.m.

M E M B E R S P R E S E N T:

LUCIO P. FERNANDEZ, COMMISSIONER
MARYURY A. MARTINETTI, COMMISSIONER
TILO E. RIVAS, COMMISSIONER, (Arrived at 3:32 p.m.)
BRIAN P. STACK, MAYOR

M E M B E R S A B S E N T:

CELIN J. VALDIVIA, COMMISSIONER

A L S O P R E S E N T:

DOMINICK CANTATORE, ACTING CITY CLERK

SCARINCI HOLLENBECK
BY: KRYSTLE NOVA, ESQ.
Corporation Counsel

GREGORY T. FARMER, ESQ.
Attorney for the Union City
Alcohol Beverage Control Commission

A P P E A R A N C E S:

MESSRS. CAMMARATA, NULTY & GARRIGAN

BY: THOMAS J. CAMMARATA, ESQ.

Attorney for Los Laureles Liquors t/a
Laureles Liquors

TOMAS ESPINOSA, ESQ.

Attorney for Neil Akshar Inc. t/a Reuben Liquors

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1 ACTING CITY CLERK: This is a Regular
2 Public Meeting of the Union City Board of
3 Commissioner, being held on Friday, July 1st,
4 2016, at 3:30 p.m., at William V. Musto Cultural
5 Center, 420 15th Street, Union City, New Jersey.

6 Everyone please rise for the Pledge of
7 Allegiance.

8
9 (Whereupon the Pledge of Allegiance was
10 said.)

11
12 ACTING CITY CLERK: This meeting has been
13 called in accordance with Chapter 231, Public Law
14 1975, the Open Public Meeting Act.

15 Adequate notice of this meeting has been
16 provided as follows:

17 Notice of this meeting being -- setting
18 forth the time, the date, location, the agenda,
19 to the extent known, was forwarded to The Jersey
20 Journal, The Record, and The Hudson Reporter, has
21 been posted on bulletin board in City Hall and
22 has been made available to the public in the
23 office of the Municipal Clerk.

24

25 **ROLL CALL:**

1

2

ACTING CITY CLERK: Roll call.

3

Commissioner Fernandez?

4

COMMISSIONER FERNANDEZ: Here.

5

ACTING CITY CLERK: Commissioner Rivas?

6

MAYOR STACK: He's on his way.

7

ACTING CITY CLERK: Commissioner Valdivia?

8

MAYOR STACK: He had an emergency.

9

ACTING CITY CLERK: Commissioner Valdivia

10 on his way, too?

11

MAYOR STACK: He had an emergency. Yeah.

12

ACTING CITY CLERK: Commissioner

13

Martinetti?

14

COMMISSIONER MARTINETTI: Here.

15

ACTING CITY CLERK: Next item --

16

MAYOR STACK: Mayor Stack; here.

17

ACTING CITY CLERK: Mayor Stack?

18

Sorry, Mayor.

19

20 **CONSENT AGENDA:**

21

22 (1) Resolution Approving the Payment of Claims

23

(2) Resolution Approving the Payment of

24

Concurring Claims

25

(3) Resolution Approving the City Payroll for

1 the Period of June 11, 2014 (sic) through June
2 24, 2016

3 (4) Resolution Approving the Library Payroll
4 for the Period of June 11, 2016 through June 24,
5 2016

6 (5) Resolution to Approve State Fiscal Year
7 2017 Temporary Budget

8 (6) Resolution Requesting Permission for the
9 Dedication by Rider for UCC Elevator Fees
10 Required by NJS 52:27D-119

11 (7) Resolution Awarding Contract to A & J
12 Contractors Group Inc. for 2016 Road Program
13 Phase I

14 (8) Resolution Approving the Renewal of
15 Rickey's (sic) Frontier Inc. T/A Rickys Frontier
16 Located at 1218 Kennedy Blvd., Liquor License No.
17 0910-33-104-002

18 (9) Resolution Approving the Renewal of Chrisam
19 Corp. T/A El Centro American Located at 1313
20 Summit Avenue, Liquor License No. 0910-33-007-011

21 (10) Resolution Appointing Member Anthony Squire
22 to the Rent Stabilization Board

23 (11) Resolution Appointing Member Libero Marotta
24 to the Zoning Board of Adjustment

25 (12) Resolution Authorizing the Award of

1 Contract for Labor Counsel for (sic) Labor (sic)
2 Counsel (sic) for the City of Union City with
3 O'Toole Fernandez for 2016-2017
4 (13) Resolution Authorizing the Award of
5 Contract for Legal Aide Services to Wilfredo
6 Ortiz, Esq. for 2016-2017
7 (14) Resolution Authorizing the Award of a
8 Contract for Library Board Counsel for the City
9 of Union City with Ulysses Isa Esq. for 2016-2017
10 (15) Resolution Authorizing the Award of
11 Contracts for Municipal Court Prosecutor Services
12 for 2016-2017
13 (16) Resolution Authorizing the Award of
14 Contract for Tax Appeal Counsel for the City of
15 Union City to Neil Marotta, Esq. for 2016-2017
16 (17) Resolution Authorizing the Award of
17 Contract for Open Space and Green Acres Grant
18 Consultant with Community Housing & Planning
19 Associates Inc. for 2016-2017
20 (18) Resolution Authorizing the Award of
21 Contract for Personnel Consultant with Jason
22 Michael Consultants for 2016-2017
23 (19) Resolution Authorizing the Award of
24 Contract for Planning and Zoning Board Consultant
25 Services with Community Housing & Planning

- 1 Associates, Inc. for 2016-2017
- 2 (20) Resolution Approving Contract with John
3 Cagna for Computer System Administration for the
4 Union City Police Department
- 5 (21) Resolution Awarding Contract with Carepoint
6 for Police Physician Services for 2016-2017
- 7 (22) Resolution Authorizing the Award of
8 Contract for Accounting Services with Business
9 Accounting Service LLC for 2016-2017
- 10 (23) Resolution Authorizing the Award of
11 Contract to Heyer Gruel for Planning Consultant
12 for Affordable Housing Matters for 2016-2017
- 13 (24) Resolution to Approve Contract for
14 Webmaster Services with Alphadog for 2016-2017
- 15 (25) Resolution Authorizing the Award of
16 Contract for Arborist with Boulder Hill Tree &
17 Excavating for 2016-2017
- 18 (26) Resolution Authorizing the Award of
19 Contracts for Architectural Services the City of
20 Union City for 2016-2017
- 21 (27) Resolution Authorizing the Award of
22 Contract for Auditing and Accounting Services
23 with Donohue, Gironde, Doria & Tompkins, LLC for
24 2016-2017
- 25 (28) Resolution Approving Conflicts Counsel for

1 the Planning and Zoning Boards

2 (29) Resolution Authorizing the Award of
3 Contract for Corporation Counsel Services for
4 Union City for 2016-2017

5 (30) Resolution Authorizing the Award of
6 Contract for Counsel for the Rent Stabilization
7 Board to Neil Marotta, Esq. for 2016-2017

8 (31) Resolution Authorizing the Award of
9 Contract for ABC Prosecutor with Gregory T.
10 Farmer, Esq. for 2016-2017

11 (32) Resolution Authorizing the Award of
12 Contracts for Engineering Services for the City
13 of Union City for 2016-2017

14 (33) Resolution Approving Contract for Baseball
15 and Softball Equipment for 2016

16 (34) Resolution Authorizing the Award of
17 Contract for Recreation Physicals to Carepoint
18 Health Medical Group for 2016-2017

19 (35) Resolution Authorizing the Award of
20 Contracts for Special Counsel Services for 2016-
21 2017

22 (36) Resolution Authorizing the Award of
23 Contracts for Substitute Public Defender for
24 2016-2017

25 (37) Resolution Authorizing the Award of

1 Contracts for Tax Appeal Expert Services for the
2 City of Union City

3 (38) Resolution Authorizing the Award of
4 Contract for Tenant Advocacy Attorney for 2016-
5 2017

6 (39) Resolution Authorizing the Award of
7 Contract for Tenants Rights Board Attorney to
8 Alan Peyrouton, Esq. for 2016-2017

9 (40) Resolution Authorizing the Award of
10 Contract for Transcription Services for Union
11 City Boards with Audio-Digital Transcription
12 Services for 2016-2017

13 (41) Resolution to Approve Contract for
14 Webmaster Services for the Union City Police
15 Department with D1MGMT for 2016-2017

16 (42) Resolution Authorizing the Award of
17 Contract for Public Defender for 2016-2017

18 (43) Resolution Authorizing the Award of
19 Contract for Bond Counsel for the City of Union
20 City with Parker McCay

21 (44) Resolution Authorizing the Award of
22 Contract for Zoning Board of Adjustment Counsel
23 for the City of Union City to Thomas (sic) R.
24 Paneque, Esq. for 2016-2017

25 (45) Resolution Authorizing the Award of

1 Contract for Planning Board Counsel for the City
2 of Union City to Wilfredo Ortiz, Esq. for 2016-
3 2017
4 (46) Resolution Authorizing the Award of
5 Contract for Special Construction Code Litigation
6 Counsel Services to Chasan Leyner & Lamparello
7 (47) Resolution Authorizing the Award of
8 Contract for Engineering Services for the
9 Community Development Agency for 2016-2017
10 (48) Resolution Authorizing the Award of
11 Contract for Architectural Services for the
12 Community Development Agency for 2016-2017
13 (49) Resolution Authorizing the Award of
14 Contract for General Counsel Services for
15 Community Development Agency 2016-2017
16 (50) Resolution Authorizing the Award of
17 Contract for Community Development Agency
18 Planning Consultant 2016-2017
19 (51) Resolution Authorizing the Award of
20 Contract for Substitute Municipal Court
21 Prosecutor for 2016-2017
22 (52) Resolution Authorizing the Refund of
23 Premium Monies Collected at the Tax Sale
24 (53) Resolution to Refund Sewer Charges
25 (54) Resolution Authorizing Refund of Redemption

1 Monies to Outside Lienholders

2 (55) Resolution Authorizing the Refund of
3 Payment Fees Made by a Lienholder on of Block 92,
4 Lot 28 Also Known as 617 18 Street

5 (56) Any other matter of City business that may
6 arise

7

8 ACTING CITY CLERK: First item on the
9 agenda is Consent Agenda.

10 Item 1.

11 Resolution Approving the Payments of Claim.

12 Item 2.

13 Resolution Approving the Payment of
14 Concurring Claims.

15 Item 3.

16 Resolution Approving the City Payroll for
17 the Period of June 11, 2016 through June 24th,
18 2016.

19 Item 4.

20 Resolution Approving the Library Payroll
21 for the Period of June 11, 2014 (sic) through
22 June 24th, 2016.

23 Item 5.

24 Resolution to Approve State Fiscal Year
25 2017 Temporary Budget.

1 Item 6.

2 Resolution Requesting Permission for the
3 Dedication by Rider for UCC Elevator Fee Required
4 by NJS 52:27D-119.

5 Item 7.

6 Resolution Awarding Contract to A and J
7 Contractors Group Inc. for 2016 Road Program Work
8 Phase I.

9 Item 8.

10 Resolution Approving the Renewal of Ricky
11 Frontier Inc., also known as Ricky Frontier,
12 Located at 4218 (sic) Kennedy Boulevard, Liquor
13 License Number 0910-33-104-002.

14 MAYOR STACK: 1218 Kennedy Boulevard.

15 ACTING CITY CLERK: Twelve? 1218 Kennedy
16 Boulevard. Had that right.

17 Item 9.

18 Resolution Approving the Renewal of Chrisam
19 Corp., also known as El Centro Americano (sic),
20 Located at 1313 Summit Avenue, Liquor License
21 Number 0910-33-007-011. And this is a pocket
22 license.

23

24 (Whereupon, Commissioner Rivas arrived at
25 3:32 p.m.)

1

2 ACTING CITY CLERK: Item 10.

3 Resolution Appointing Member Anthony Squire
4 to the Rent Stabilization Board.5 COMMISSIONER FERNANDEZ: Mr. Clerk, please
6 note that Commissioner Rivas --7 ACTING CITY CLERK: Commissioner Rivas is
8 here.

9 COMMISSIONER RIVAS: Thank you.

10 ACTING CITY CLERK: Item 11.

11 Resolution Appointing Member Libero Marotta
12 to the Zoning Board of Adjustment.

13 Item 12.

14 Resolution Authorizing the Award of a
15 Contract for Labor Counsel for -- for Labor
16 Counsel for the City of Union City with O'Toole
17 Fernandez.

18 Item 13.

19 Resolution Authorizing the Award of
20 Contract for Legal Aide Services to Wilfredo
21 Ortiz, Esquire.

22 Item 14.

23 Resolution Authorizing Award of a Contract
24 for Library Board Counsel to the -- for the City
25 of Union City to -- to Ulysses Isa Esquire.

1 Item 15.

2 Resolution Authorizing the Award of
3 Contracts for Municipal Court Prosecutor Services
4 for --

5 MAYOR STACK: That's --

6 ACTING CITY CLERK: -- 2000 --

7 MAYOR STACK: -- that's just a pool of
8 prosecutors? That's not --

9 MS. NOVA: Yes.

10 MAYOR STACK: -- appointing a Chief
11 Municipal Prosecutor.

12 MS. NOVA: Correct.

13 MAYOR STACK: Okay.

14 ACTING CITY CLERK: Item 16.

15 Resolution Authorizing the Award of
16 Contract to Tax Appeal Counsel for the City of
17 Union City to Neil Marotta, Esquire.

18 Item 17.

19 Resolution Awarding (sic) the Award of
20 Contract for Open Space and Green Acre Grant
21 Consultant with Community Housing and Planning
22 Associates Inc.

23 Item 18.

24 Resolution Authorizing the Award of
25 Contract for Personnel Consultant with Jason

1 Michael Consultants.

2 Item 19.

3 Resolution Authorizing the Award of a
4 Contract for Planning and Zoning Board Consultant
5 Services with Community Housing and Planning
6 Associates, Inc.

7 Item 20.

8 Resolution Approving Contract with John
9 Cagna for Computer System Administrator --
10 Administration for the Union City Police
11 Department.

12 Item 21.

13 Resolution Awarding Contract with Carepoint
14 for Police Physician Services.

15 Item 22.

16 Resolution Authorizing the Award of
17 Contract for Accounting Services with -- with
18 Business Accounting Service LLC.

19 Item 23.

20 Resolution Authorizing the Award of
21 Contract to Heyer Gruel for Planning Consultant
22 for Affordable Housing Matters.

23 Item 24.

24 Resolution to Approve Contract for
25 Webmaster Services with Alphadog.

1 Item 25.

2 Resolution Authorizing the Award of
3 Contract for Arborist with Boulder Hill Tree and
4 Excavating.

5 Item 26.

6 Resolution Authorizing the Award of
7 Contract for Architectural Services for the City
8 of Union City.

9 Item 27.

10 Resolution Authorizing the Award of
11 Contract for Auditing and Accounting Services
12 with Donohue, Gironde and Doria Tompkins, LLC.

13 Item 28.

14 Resolution Approving Conflict Counsel for
15 the Planning and Zoning Boards.

16 Item 29.

17 Resolution Authorizing the Award of
18 Contract for Corporation Counsel Services for the
19 City Union City.

20 Item 30.

21 Resolution Authorizing the Award of
22 Contract for Counsel for the Rent Stabilization
23 Board to Neil Marotta, Esquire.

24 Item 31.

25 Resolution Authorizing the Award of

1 Contract for ABC Prosecutor with Gregory T.
2 Farmer, Esquire.

3 Item 32.

4 Resolution Authorizing the Award of
5 Contract for Engineering Services.

6 Item 33.

7 Resolution Approving Contracts for Baseball
8 and Softball Equipment for 2016.

9 Item 34.

10 Resolution Authorizing the Award of
11 Contract for Recreation Physicals to Carepoint
12 Health Medical Group, Inc.

13 Item 35.

14 Resolution Authorizing the Award of
15 Contracts for Special Counsel Services.

16 Item 36.

17 Resolution Authorizing the Award of
18 Contracts for Substitute Public Defender.

19 Item 37.

20 Resolution Authorizing the Award of
21 Contracts for Tax Appeal Expert Services.

22 Item 18 (sic).

23 Resolution Authorizing the Award of
24 Contract for Tenant Advocacy Attorney.

25 Item 39.

1 Resolution Authorizing the Award of
2 Contract for Tenant Right Board Attorney to Alan
3 Peyrouton, Esquire.

4 Item 40.

5 Resolution Authorizing the Award of
6 Contract for Transcription Services for Union
7 City Boards with Audio-Digital Transcription
8 Services.

9 Item 41.

10 Resolution to Approve Contract for
11 Webmaster Services for the Union City Police
12 Department to D1 Management.

13 Item 42.

14 Resolution Approving (sic) the Award of
15 Contract for Public Defender.

16 Item 43.

17 Resolution Authorizing the Award of
18 Contract for Bond Counsel with -- for the City
19 for Parker McCay.

20 Item 44.

21 Resolution Authorizing the Award of
22 Contract for Zoning Board of Adjustment Counsel
23 for the City of Union City, Thomas (sic) R.
24 Paneque, Esquire.

25 Item 45.

1 Resolution Authorizing the Award of
2 Contract for Planning Board Counsel to Wilfredo
3 Ortiz, Esquire.

4 Item 46.

5 Resolution Authorizing the Award of
6 Contract for Special Construction Code Litigation
7 Counsel Service to Chasan Leyner and Lamparello.

8 Item 47.

9 Resolution Authorizing the Award of
10 Contract for Engineering Services for the
11 Community Development Agency.

12 Item 48.

13 Resolution Authorizing the Award of
14 Contract for Architectural Services for the
15 Community Development Agency.

16 Resolution -- item 49.

17 Resolution Awarding (sic) the Award of
18 Contract for General Counsel Services for
19 Community Development Agency.

20 Item 50.

21 Resolution Authorizing the Award of
22 Contract for Community Development Agency
23 Planning Consultant.

24 Item 51.

25 Resolution Authorizing the Award of

1 Contract for Substitute Municipal Court
2 Prosecutor.

3 Item 52.

4 Resolution Authorizing the Refund of
5 Premium Money Collected at Tax Sale.

6 Item 53.

7 Resolution to Refund Sewer Charges.

8 Item 54.

9 Resolution Authorizing Refund of Redemption
10 Monies to Outside Lienholders.

11 Item 55.

12 Resolution Authorizing the Refund of
13 Payment Fees Made by a Lienholder -- Lienholder
14 on Block 92, Lot 28 also known as 617 18th Street.

15 Mayor, do you wish to take public comment
16 on any item on the Consent Agenda at this time?

17 MAYOR STACK: Sure.

18 Just before we do, Mr. Clerk, just to
19 mention, the contract awarded to A and J
20 Contracting for the Road Program, once again this
21 will be doing multiple streets in the community
22 this summer on side streets, individual side
23 streets.

24 For example, like Palisade to New York
25 Avenue or Bergenline to West. We'll be doing

1 about 25 more of those streets over the summer.

2 That's in addition to the work that we're
3 doing the entire length of Summit Avenue from 21
4 to 32; Bergenline Avenue/13th Street north up to
5 about 18th Street this year.

6 So we're continuing with that program to
7 try to beautify the City; make it safer.

8 In addition, on number 10 and 11, members
9 of the public who have come forward and asked to
10 serve on boards.

11 Mr. Squire, a longtime Union City resident,
12 going to the Rent Stabilization Board; is also a
13 tenant himself.

14 Mr. Marotta, a longtime Union City resident
15 -- lifelong resident of the City, going on the
16 Zoning Board of Adjustment.

17 We appreciate their services.

18 On a lot of these that were awarded today
19 on these contracts, -- architectural services,
20 engineering services -- basically the majority if
21 not the entire list of whoever applied, is being
22 put on the list to be utilized at various times
23 as needed.

24 I'd also like to point out Mr. Farmer's
25 work as our ABC Prosecutor. I don't know if he's

1 -- he's in the room. He does an excellent job
2 there and it's our pleasure to award him a
3 contract again.

4 Thank you for your work, Greg.

5 And that's basically it.

6 I'd just like to thank the Commissioners
7 once again for moving a hundred percent of our
8 meetings throughout the community.

9 Anyone wishing to comment at this time,
10 please step forward, state your name and address
11 for the record.

12 Seeing none.

13 ACTING CITY CLERK: Is there a motion to
14 approve all items on the Consent Agenda?

15 MAYOR STACK: Motion.

16 ACTING CITY CLERK: Motion by Mayor Stack.

17 COMMISSIONER RIVAS: Second.

18 ACTING CITY CLERK: Second by Commissioner
19 Rivas.

20 Roll call.

21 Commissioner Fernandez?

22 COMMISSIONER FERNANDEZ: Yes, with the
23 excep-- yes, with the exception of number 52 and
24 number 54 as it pertains to Brown Street.

25 ACTING CITY CLERK: Yes to the exception of

1 52 and 54.

2 Commissioner Rivas?

3 COMMISSIONER RIVAS: Yes.

4 ACTING CITY CLERK: Commissioner Valdivia?

5 Is -- is coming.

6 Commissioner Martinetti?

7 COMMISSIONER MARTINETTI: Yes; I'm recusing
8 from number 1, where it pertains to Adolfo Lopez
9 payments and number 6, Union City Elevator Fees.

10 Aye for the rest.

11 ACTING CITY CLERK: Mayor Stack?

12 MAYOR STACK: Yes on all.

13

14 **REGULAR AGENDA:**

15

16 1. Resolution Authorizing Payment of Claim to
17 Union City Board of Education

18

19 ACTING CITY CLERK: Next item is a Regular
20 Agenda. We have one item.

21 It's a Resolution Authorizing Payment of
22 Claim Union City Board of Education.

23 MAYOR STACK: I'll move it.

24 COMMISSIONER RIVAS: I'll second.

25 ACTING CITY CLERK: Motion by Mayor Stack.

1 Second by Commissioner Rivas.

2 MS. NOVA: For -- for this Resolution,
3 Commissioner Martinetti will be voting because of
4 the Doctrine of Necessity.

5 COMMISSIONER MARTINETTI: Yes.

6 ACTING CITY CLERK: Commissioner
7 Martinetti?

8 Commissioner Fernandez?

9 Recusing.

10 COMMISSIONER RIVAS: I vote yes.

11 ACTING CITY CLERK: Mayor Stack?

12 MAYOR STACK: Yes.

13

14 **LIQUOR LICENSE TRANSFER HEARING:**

15

16 1. PERSON TO PERSON TRANSFER APPLICATION FOR
17 LIQUOR LICENSE #0910-33-104-002 FROM RICKY'S
18 FRONTIER, INC. TO CONGA CAFÉ LLC, LOCATED AT 1218
19 KENNEDY BLVD, UNION CITY

20

21 MAYOR STACK: Liquor License Transfer?

22 ACTING CITY CLERK: Yes.

23 We have a Liquor License Transfer on the
24 agenda as a hearing regarding a Person to Person
25 Transfer Application for Liquor License Number

1 0910-33-104-002 from Ricky Frontier, Inc. to
2 Conga Café, LLC, Located at 1218 Kennedy
3 Boulevard, Union City.

4 MAYOR STACK: Sure.

5 Counsel could approach?

6 Sure.

7 MS. DILLON: Just right over here, counsel.

8 Thank you.

9 MS. NOVA: Members of the Board, just so
10 you know, this application was completed. An
11 investigation was done by Detective Sergeant
12 Dunlay. And all of the documentation is correct
13 at this time.

14 MR. KAYE: Good afternoon, Mayor Stack,
15 Commissioners.

16 My name is Robert Kaye, K-A-Y-E. I'm an
17 attorney with Chasan Leyner and Lamparello in
18 Secaucus and I represent the applicant, which is
19 Conga Café, LLC.

20 And I'm here to answer any questions you
21 may have about the operation that our client
22 intends to engage in.

23 MAYOR STACK: Sure.

24 MR. KAYE: We -- we think it will be a
25 benefit to the community. It's intended to be a

1 family-style restaurant.

2 And if there are any questions I'll be
3 happy to try to answer them for you.

4 MAYOR STACK: Sure.

5 My only question, it's going to -- it's
6 going to be a family-style restaurant? What will
7 be the hours of operation?

8 MR. KAYE: May I ask the --

9 MAYOR STACK: Sure. Absolutely.

10 MR. KAYE: -- the principal to step
11 forward?

12 This is Raquel Calvo. She is the principal
13 owner and only -- only owner of Conga Café.

14 MAYOR STACK: Yes.

15 MS. CALVO: Good afternoon.

16 The hours of operation will be six a.m.
17 until about -- you know, playing it by ear on the
18 weekends maybe midnight.

19 MAYOR STACK: Okay.

20 MS. CALVO: But it will never exceed -- you
21 know, last call would be at one o'clock, should
22 we ever get to that.

23 MAYOR STACK: Great.

24 MS. CALVO: We will -- there will never be
25 an issue with that.

1 MAYOR STACK: And -- and Ms. Calvo, this
2 will be family-run? You'll -- you'll be present
3 at the business?

4 MS. CALVO: Absolutely I will --

5 MAYOR STACK: Okay, great.

6 MS. CALVO: -- be present.

7 MAYOR STACK: Great. That's what our main
8 concern is. To keep it nice and quiet; give good
9 quality of life to the residents of the area.

10 MS. CALVO: It's going to be a place that I
11 would bring my children --

12 MAYOR STACK: Exactly.

13 MS. CALVO: -- and want people to come with
14 their families as well.

15 MAYOR STACK: Great.

16 MS. CALVO: Yes.

17 MAYOR STACK: Thank you very much.

18 MS. CALVO: Thank you.

19 MAYOR STACK: Thank you.

20 Any other questions by any Commissioners?

21 Any members of the public, on an
22 application at 1218 Kennedy Boulevard?

23 Seeing none.

24 I'll make a motion.

25 COMMISSIONER FERNANDEZ: Second.

1 ACTING CITY CLERK: Motion by Mayor Stack.
2 Second by Commissioner Fernandez.
3 Roll call.
4 Commissioner Fernandez?
5 COMMISSIONER FERNANDEZ: Yes.
6 ACTING CITY CLERK: Commissioner Rivas?
7 COMMISSIONER RIVAS: Yes.
8 ACTING CITY CLERK: Commissioner
9 Martinetti?
10 COMMISSIONER MARTINETTI: Yes.
11 ACTING CITY CLERK: Mayor Stack?
12 MAYOR STACK: Yes.
13 Best of luck with the business.
14 MS. CALVO: Thank you.
15 MR. KAYE: Thank you.
16 MAYOR STACK: Thank you very much, Mr.
17 Kaye.
18 MR. KAYE: Thank you all.
19 MAYOR STACK: Thank you.
20 MS. NOVA: And -- and the Resolution will
21 be --
22 MAYOR STACK: Have a great weekend.
23 MS. NOVA: -- memorialized at the next
24 meeting.
25 Okay?

1 MR. KAYE: And that's on the 12th?

2 MS. NOVA: July 12th, the Resolution --

3 MR. KAYE: Thank you all.

4 MS. NOVA: -- will be memorialized.

5

6 **OPPORTUNITY FOR CITIZENS TO ADDRESS THE BOARD:**

7

8 MAYOR STACK: At this time is there any
9 member of the public who would like to comment on
10 any matter concerning municipal government in the
11 City of Union City?

12 Please step forward, state your name and
13 address for the record.

14 MR. PRICE: Larry Price, 1006 Palisade
15 Avenue.

16 On June 8th the Board of Commissioners
17 passed an Ordinance allowing the -- for the
18 appointment to the Planning Board of two
19 additional alternate members; number 3 and number
20 4.

21 The polite way of saying this is you can't
22 do that. The Municipal Land Use Law says in any
23 municipality which has a separate planning board
24 and zoning board, you're limited to two
25 alternates.

1 So, --

2 MAYOR STACK: We'll definitely look into it
3 and we'll --

4 MS. NOVA: My --

5 MAYOR STACK: -- we'll address that.

6 MS. NOVA: -- my -- my office did look into
7 that and we did all the research on it and we are
8 allowed to have an extra two alternates.

9 MR. PRICE: Well, --

10 MS. NOVA: I will look further into it if
11 you'd like but we --

12 MAYOR STACK: If you can. If you want --

13 MR. PRICE: Yeah. I mean --

14 MAYOR STACK: -- if you --

15 MR. PRICE: -- the wording of the -- of
16 23.1 section of the MLUL is, you know, quite
17 clear.

18 If you're less than 15,000 people and you
19 have only one -- a combined board, you can
20 appoint up to four alternates. If you have
21 separate boards, it's two.

22 MAYOR STACK: Okay, give me the legal --

23 MS. NOVA: All right.

24 MR. PRICE: And I even --

25 MAYOR STACK: -- research if you can.

1 MS. NOVA: Sure.

2 MAYOR STACK: Give me the legal research on
3 that and then I'll reach back out for Mr. Price.

4 MS. NOVA: Okay. Great.

5 I will.

6 MR. PRICE: You know, I mean I'm -- you
7 know, it's -- it's not a -- you know I'm not
8 going to oppose this. Although I'll keep it in
9 mind if next January there's a Planning Board
10 Meeting and five members there includes one of
11 those alternates, there are only really four real
12 members there and that's not a quorum.

13 If they pass something I oppose, guess what
14 the first --

15 MS. NOVA: I --

16 MR. PRICE: -- first part -- first count of
17 my complaint --

18 MS. NOVA: I will pull the research that we
19 did on it and get --

20 MR. PRICE: Oh, yeah.

21 MS. NOVA: -- and give it over to the
22 Board.

23 MR. PRICE: The second thing, used to be my
24 problems with the Zoning Board, now it's the
25 Planning Board.

1 The Planning Board approved and the last
2 meeting in July (sic) they memorialized an
3 improvement or a -- for a 48-unit building at the
4 corner of 38th Street and Hackensack Plank Road.

5 They -- you know they did so on the basis
6 that it is a greyfield development. Greyfield
7 development. They had two claims. One was that
8 there had been a small commercial use, which had
9 by the way been demolished no later than 1994 and
10 they said that covered the whole thing and it was
11 -- it was still good.

12 This is not -- you know when we adopted the
13 Land Development Ordinance and we talked about,
14 you know, greyfield development, that was not one
15 of them. They -- you know, it was supposed to be
16 a vacant building. There are no vacant buildings
17 and there haven't been for 22 years on this site.

18 So -- they also had a second claim that
19 they had used part of the site recently, within
20 the last four years, for one year as a parking
21 lot for a garage located -- mechanic's garage
22 located nearby. They used it for one year. And
23 they said that's a commercial use, too, which we
24 now abandoned.

25 I mean this -- if they get away -- this one

1 I'm going to oppose and if they get away with
2 this, you know, anybody's got a 7500 square foot
3 site in the City is going to go into the parking
4 business for one year and then claim he has a
5 greyfield development. I don't think that was
6 what was intended.

7 So, I mean I'll fight this one but they're
8 -- what they're relying on is a definition in the
9 Land Development Ordinance, which says a former
10 commercial or industrial building or property
11 used --

12 But -- and they say, well, 24 years ago it
13 was used as a commercial use. So, I think that
14 -- may I suggest to the Board that maybe the
15 wording might be tightened up there a little.

16 I don't --

17 MAYOR STACK: Okay.

18 Krystle, if you could look into that with
19 Mr. Spatz and with counsel, I appreciate that.

20 MS. NOVA: I will.

21 MR. PRICE: All right.

22 MAYOR STACK: Thank you.

23 MR. PRICE: Thank you.

24 MAYOR STACK: I thought you were rising to
25 praise the appointment of Libero Marotta to the

1 Board.

2 Okay, at this time, liquor --

3 I'm sorry. Anyone else wishing to comment
4 at this time? I'm sorry.

5 Seeing no other.

6 ACTING CITY CLERK: Liquor License --

7 COMMISSIONER MARTINETTI: Motion.

8 ACTING CITY CLERK: -- Disciplinary
9 Proceedings.

10 Mr. Farmer?

11 MS. DILLON: Are you going to take --

12 COMMISSIONER MARTINETTI: No motion?

13 MS. DILLON: -- to close?

14 COMMISSIONER MARTINETTI: Motion to close.

15 COMMISSIONER FERNANDEZ: Motion to close.

16 ACTING CITY CLERK: Yeah.

17 COMMISSIONER RIVAS: Second.

18 ACTING CITY CLERK: Motion by Commissioner
19 Fernandez.

20 Second by Commissioner Rivas.

21 COMMISSIONER RIVAS: To close.

22 COMMISSIONER MARTINETTI: Aye.

23 ACTING CITY CLERK: Commissioner
24 Martinetti?

25 Mayor Stack?

1 MAYOR STACK: Yes.

2 COMMISSIONER RIVAS: Yes.

3 COMMISSIONER MARTINETTI: Close.

4 ACTING CITY CLERK: Roll --

5 COMMISSIONER MARTINETTI: Closed.

6 ACTING CITY CLERK: We just did. Closed.

7 COMMISSIONER RIVAS: Aye.

8 MS. DILLON: You -- you didn't call

9 Commissioner Rivas and Fernandez.

10 MAYOR STACK: You cut us out all the time.

11 Me and Rivas; you cut us out.

12 ACTING CITY CLERK: Commissioner Fernandez?

13 COMMISSIONER FERNANDEZ: Yes.

14 ACTING CITY CLERK: Roll call.

15 Commissioner Fernandez?

16 Commissioner Rivas?

17 COMMISSIONER RIVAS: Yes.

18 ACTING CITY CLERK: Commissioner

19 Martinetti?

20 Mayor Stack?

21 MAYOR STACK: Yes.

22 COMMISSIONER MARTINETTI: Yes.

23 MAYOR STACK: You cut out on Rivas and I

24 all the time.

25 ACTING CITY CLERK: Only today, Mayor.

1 MAYOR STACK: I'm only kidding -- I'm only
2 kidding around with you.

3 COMMISSIONER RIVAS: Long week.

4 ACTING CITY CLERK: Long day.

5 Took a lot out of me. A lot of energy out
6 of me -- (indiscernible) -- and yesterday, too.

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1 **LIQUOR LICENSE DISCIPLINARY PROCEEDINGS:**

2

3 1. Neil Akshar Inc. t/a Reuben Liquors

4 2117 Summit Avenue

5 Liquor License No. 0910-32-178-005

6 2. Los Laureles Liquors, t/a Laureles Liquors

7 4625 Broadway

8 Liquor License No. 0910-44-026-011

9 3. 2216 Bergenline Ave LLC t/a Centro Bar

10 2216 Bergenline Avenue

11 Liquor License No. 0910-33-166-004

12

13 **LOS LAURELES LIQUORS t/a LAURELES LIQUORS**

14 **Located at 4625 Broadway**

15 **Liquor License No. 0910-44-026-011**

16

17 MR. FARMER: Okay.

18 MAYOR STACK: Tom, how are you?

19 MR. CAMMARATA: Good. How are you, --

20 MAYOR STACK: Good.

21 MR. CAMMARATA: -- Mayor?

22 MR. FARMER: With respect to the agenda

23 that's set forth for the liquor license

24 disciplinary problems, I'm -- I'd like to take

25 number 2.

1 Mr. Cammarata is here representing the
2 licensee. The licensee is here.

3 MR. CAMMARATA: Yes.

4 MR. FARMER: This is a charge of selling
5 liquor to an underage individual. This is the
6 second offense within a 12-month period with this
7 licensee.

8 And Mr. Cammarata, along with Sergeant
9 Dunlay and I, have talked about the matter and
10 what we have agreed to as far as a plea, subject
11 to your approval, on a second offense it's 30
12 days. If he pleads guilty we have offered 25
13 days. But 25 days will include the equivalent of
14 four weekends.

15 So, for all intents and purposes, 30 days.

16 And --

17 MAYOR STACK: That would be Friday,
18 Saturday, Sunday?

19 MR. FARMER: I think it's --

20 MR. CAMMARATA: Yes, it will start --

21 MR. FARMER: August 18th.

22 MR. CAMMARATA: Go till November --
23 September 11th.

24 MR. FARMER: To September 11th.

25 MAYOR STACK: Okay.

1 MR. FARMER: And it starts on the Thursday,
2 so it will be four Thursday, Friday and
3 Saturdays.

4 Okay?

5 MAYOR STACK: Okay.

6 Mr. Cammarata, if you can enter your
7 appearance.

8 MR. CAMMARATA: Thank you.

9 Thomas Cammarata of the Law Offices of
10 Cammarata, Nulty and Garrigan, 549 Summit Avenue,
11 Jersey City.

12 MAYOR STACK: And do you -- do you agree
13 with what --

14 MR. CAMMARATA: The -- the only thing --

15 MAYOR STACK: -- what Mr. Farmer has
16 represented?

17 MR. CAMMARATA: -- I would ask you to
18 consider, I know that 25 days I'm not going to
19 tell you it's unreasonable but my client has a
20 contract to sell this property. He's also got a
21 -- put in a guard at the front door. So I would
22 ask that you consider 20 days instead of 25 days.

23 I told Mr. Farmer I was going to ask that.
24 If you're -- if you're inclined to do that, only
25 because of the fact that he does have a contract

1 to sell the place. The sooner this is over he
2 can get his contract.

3 I understand that the -- the buyer has his
4 approvals or is in the process of getting his
5 approvals for -- for the liquor license.

6 So I would just ask that you consider that.

7 MAYOR STACK: Mr. Farmer, any response?

8 MR. FARMER: No, I don't have any response.

9 As you know it's 30 days for a second
10 offense. This is within a year. The first
11 offense was last year --

12 I can give you the exact date.

13 MR. CAMMARATA: October.

14 MR. FARMER: Yeah, it was October of 2015.
15 So, this is July of '16, so it's nine months ago.

16 MAYOR STACK: Very short period of time.

17 MR. FARMER: Yeah.

18 MAYOR STACK: Right.

19 We'll go with the recommendation of 25
20 days.

21 I just ask in the meantime that the
22 licensee not allow people to hangout in front of
23 the establishment. I pass there all the time.
24 There's always a group of people out in front. I
25 think that may lead to some of the confusion

1 who's purchasing liquor there.

2 I'll make a motion to approve the 25 day
3 suspension --

4 ACTING CITY CLERK: Motion --

5 MAYOR STACK: -- with the stipulation --

6 COMMISSIONER RIVAS: Second.

7 MAYOR STACK: -- that's been laid out.

8 ACTING CITY CLERK: -- by Mayor Stack.

9 Second by Commissioner Rivas.

10 Roll call.

11 Commissioner Fernandez?

12 COMMISSIONER FERNANDEZ: Yes.

13 ACTING CITY CLERK: Commissioner Rivas?

14 COMMISSIONER RIVAS: Yes.

15 ACTING CITY CLERK: Commissioner

16 Martinetti?

17 COMMISSIONER MARTINETTI: Yes.

18 ACTING CITY CLERK: Mayor Stack?

19 MAYOR STACK: Yes.

20 Thank you very much.

21 Thank you, Mr. --

22 MR. CAMMARATA: Thank you.

23 MAYOR STACK: -- Cammarata.

24 MR. FARMER: Okay.

25 MR. CAMMARATA: Nice seeing you.

1 MAYOR STACK: Thank you, Mr. Farmer, --

2 MR. FARMER: Okay.

3 MAYOR STACK: -- too. Thank you.

4 MR. FARMER: Okay.

5 Thank you, Tom.

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1 2216 BERGENLINE AVE LLC t/a CENTRO BAR

2 Located at 2216 Bergenline Avenue

3 Liquor License No. 0910-33-166-004

4

5 MR. FARMER: All right.

6 Number 3, Centro Bar, that's a paper
7 violation. The attorney called me; he's going to
8 be away for the holidays. If we could carry that
9 to the 12th. It's not a big offense. It's, --

10 MAYOR STACK: Okay.

11 MR. FARMER: -- like I said, a paper
12 violation.

13 MAYOR STACK: That will be on the 12th of
14 July?

15 MR. FARMER: Right.

16 Yes.

17 MAYOR STACK: Okay.

18

19 * * *

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25

1 NEIL AKSHAR INC. t/a REUBEN LIQUORS

2 Located at 2117 Summit Avenue

3 Liquor License No. 0910-32-178-005

4

5 MR. FARMER: And the last one we have is
6 the first one on your list, Reuben Liquors. And
7 they are represented by Mr. Espinosa who's here.

8 I don't know whether or not his client has
9 arrived or is coming.

10 MR. ESPINOSA: They haven't arrived yet.
11 They were notified for four p.m.

12 MAYOR STACK: Okay.

13 MR. ESPINOSA: Today in the afternoon I met
14 them and I apprised them to be here at four p.m.

15 MAYOR STACK: Okay. Okay.

16 MR. FARMER: That's it.

17 MAYOR STACK: So, we'll wait -- we'll wait
18 until ten after --

19 MR. FARMER: Okay.

20 MAYOR STACK: -- four. All right?

21 MR. FARMER: Fine. Okay. All right.

22 ACTING CITY CLERK: A recess?

23 MS. DILLON: Do you want to --

24 ACTING CITY CLERK: You want to take a
25 recess, Mayor?

1 MS. DILLON: -- go off the record?

2 MAYOR STACK: Yeah, that's fine.

3 ACTING CITY CLERK: You want to go off the
4 record?

5 MAYOR STACK: Yeah that would be fine.

6 ACTING CITY CLERK: We'll take a recess.
7 We'll take a five, ten minutes recess.

8 COMMISSIONER RIVAS: We got to vote.

9 ACTING CITY CLERK: I'm sorry?

10 MS. DILLON: Okay.

11 ACTING CITY CLERK: Okay, we'll take a
12 five, ten minutes recess.

13 Roll call.

14 Commissioner Fernandez?

15 COMMISSIONER FERNANDEZ: Yes.

16 ACTING CITY CLERK: Commissioner Rivas?

17 COMMISSIONER RIVAS: Yes.

18 ACTING CITY CLERK: Commissioner
19 Martinetti?

20 COMMISSIONER MARTINETTI: Yes.

21 ACTING CITY CLERK: Mayor Stack?

22 MAYOR STACK: Yes.

23

24 (Whereupon, the Board recessed from
25 3:54 p.m. to 4:00 p.m.)

1

2

MS. DILLON: On the record.

3

ACTING CITY CLERK: On the record.

4

COMMISSIONER MARTINETTI: Motion.

5

6

ACTING CITY CLERK: We're back on the
record.

7

8

ROLL CALL:

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ACTING CITY CLERK: Roll call.

11

Commissioner Fernandez?

12

COMMISSIONER FERNANDEZ: Here.

13

ACTING CITY CLERK: Commissioner Rivas?

14

COMMISSIONER RIVAS: Yes.

15

16

ACTING CITY CLERK: Commissioner
Martinetti?

17

COMMISSIONER MARTINETTI: Here.

18

ACTING CITY CLERK: Mayor Stack?

19

MAYOR STACK: Yes. Here.

20

21

MR. FARMER: The last one on the agenda is
Reuben Liquor. Reuben Liquor is charged with

22

underage -- sale to an underage person.

23

24

Mr. Espinosa is here representing Reuben
Liquor. And I understand he's -- it's a not

25

guilty, so we have the witnesses.

1 MR. ESPINOSA: Yes. I am representing the
2 defendant.

3 MS. DILLON: Your appearance?

4 MR. ESPINOSA: Tomas Espinosa, on behalf of
5 Reuben Liquors.

6 MR. FARMER: Okay.

7 Detective Loaces -- Lieutenant Detective
8 Loaces?

9 MS. DILLON: Please raise your right --
10 your right hand.

11 Do you affirm the testimony you're about to
12 give this Board is the whole truth?

13 LIEUTENANT LOACES: I do.

14 MS. DILLON: Please state your name for the
15 record.

16 LIEUTENANT LOACES: Lieutenant Juan Loaces,
17 L-O-A-C-E-S, Union City Police.

18 MS. DILLON: Thank you.

19 MR. FARMER: Detective, I'm going to ask
20 you some questions. Please keep your voice up so
21 everybody can hear your response.

22 You're a member of the Union City Police
23 Department?

24 LIEUTENANT LOACES: I am.

25 MR. FARMER: How long you been a member of

1 the Union City Police Department?

2 LIEUTENANT LOACES: Since July 23rd, 1990.

3 MR. FARMER: And what is your present rank
4 and what is your present duties at this -- at the
5 Union City Police Department?

6 LIEUTENANT LOACES: I am a Detective
7 Lieutenant. I am the commander of the
8 Investigative Division.

9 MR. FARMER: Okay.

10 When you say I'm the commander of the
11 Investigative Division, was your Division
12 investigating situations dealing with underage
13 drinking in Union City back in March, April of
14 this year?

15 LIEUTENANT LOACES: Yes.

16 MR. FARMER: Okay.

17 And were you kind of the one in charge of
18 that investigation?

19 LIEUTENANT LOACES: I was.

20 MR. FARMER: Okay.

21 And can you tell us what that investigation
22 consists of and -- and what you did with respect
23 to it and what the outcome of it was.

24 LIEUTENANT LOACES: Well, --

25 MR. FARMER: You understand the question?

1 LIEUTENANT LOACES: I do.

2 MR. FARMER: Okay.

3 LIEUTENANT LOACES: In response to citizen
4 complaints that were expressed at community
5 meetings of the possibility of juveniles buying
6 alcohol at area liquor stores, that culminated
7 with the fact that we had an officer who was
8 actually 20 years of age, which doesn't happen
9 often. We decided to put together a quick
10 operation where we would go out and attempt to
11 buy alcohol at these liquor stores and taverns
12 throughout the City.

13 MR. FARMER: Okay.

14 Was one of those Reuben Liquor at Summit
15 Avenue and --

16 LIEUTENANT LOACES: 2117 Summit Avenue.

17 MR. FARMER: -- 2117 Summit Avenue?

18 LIEUTENANT LOACES: Yes, sir, it was.

19 MR. FARMER: Okay.

20 And were you involved in that on a sense of
21 being there and investigating it?

22 LIEUTENANT LOACES: I was.

23 MR. FARMER: Okay.

24 Tell us from your capacity as a supervising
25 officer and supervising that investigation what

1 | happened?

2 | LIEUTENANT LOACES: On the night in
3 | question, specifically with Reuben Liquors, the
4 | undercover officer, who was 20 years old at the
5 | time, Officer Seminario, was riding with Officer
6 | -- well, Detective Mendoza.

7 | We -- myself and Sergeant Cetinich, we were
8 | in one vehicle. Officer Seminario and Detective
9 | Mendoza were in another vehicle. I directed that
10 | Officer Seminario enter the Reuben Liquors in an
11 | undercover capacity and attempt to purchase
12 | alcohol, after which he would step outside and
13 | let us know whether or not he was successful.

14 | In this case he was. He notified Detective
15 | Mendoza, who in turn notified myself and Sergeant
16 | Cetinich. And Sergeant Cetinich, myself and
17 | Detective Mendoza entered Reuben Liquors.

18 | MR. FARMER: Tomas, you want to --

19 | I'm going to show you -- well, maybe we
20 | should get this marked as an exhibit.

21 | MS. DILLON: How do you want it designated?

22 | MR. FARMER: Exhibit State 1.

23 | MS. DILLON: And how are you describing
24 | this, Mr. Farmer?

25 |

1 (Whereupon, a Sealed Evidence Property
2 Bag, File number 1639107, containing a 50
3 milliliter bottle of Smirnoff vodka was received
4 and marked as Exhibit S-1.)

5
6 MR. FARMER: I'm going to show you what is
7 Step 1 -- Exhibit 1, S-1. And it's all taped and
8 things like that.

9 What's in it?

10 LIEUTENANT LOACES: A small 50 milliliter
11 bottle, I believe, of Smirnoff Vodka.

12 MR. FARMER: Okay, would you open it and
13 let's take a look at it?

14 LIEUTENANT LOACES: At this time I'm -- I'm
15 going to open up evidence property bag with File
16 number 1639107. Inside we have one small -- I
17 think 50 milliliter --

18 Doesn't really say.

19 -- it's a small bottle of Smirnoff vodka,
20 green apple, to be specific.

21 MR. FARMER: And is that the -- the bottle
22 that the Officer gave to you after he purchased
23 it at the establishment of -- of Reuben Liquor?

24 LIEUTENANT LOACES: Yes.

25 MR. ESPINOSA: I am going to object to the

1 nature of the leading -- the leading nature of
2 those questions.

3 MAYOR STACK: I couldn't hear what you
4 said.

5 MS. DILLON: You have to come forward, --

6 MR. ESPINOSA: I said --

7 MS. DILLON: -- Mr. Espinosa, --

8 MR. ESPINOSA: I said --

9 MS. DILLON: -- please.

10 MR. ESPINOSA: -- I object to the leading
11 nature of these questions. They suggest the
12 answer.

13 MAYOR STACK: Okay.

14 Go ahead, Mr. Farmer, continue.

15 MR. FARMER: Okay.

16 Where did you get this?

17 LIEUTENANT LOACES: From Officer Seminario
18 after having purchased it inside Reuben Liquors.

19 MR. FARMER: Okay.

20 MR. ESPINOSA: I object to the -- to -- to
21 -- to the -- to the answer with respect to having
22 purchase it because the officer was not an
23 eyewitness of the so-called purchase.

24 MR. FARMER: Okay, you -- you were right
25 out -- right out --

1 I'm not going to get in arguments with you.

2 You were right outside the establishment,
3 right?

4 LIEUTENANT LOACES: Correct.

5 MR. FARMER: Okay.

6 I have no further questions.

7 Any questions?

8 MR. ESPINOSA: Well, -- but he cannot
9 testify about the purchase and that was my
10 objection.

11 MR. FARMER: All right. I have no further
12 questions.

13 You have any objections to --

14 MAYOR STACK: Do you have any questions of
15 Lieutenant Loaces?

16 MR. ESPINOSA: Yeah, I do.

17 MAYOR STACK: Okay.

18 MR. ESPINOSA: Lieutenant, --

19 LIEUTENANT LOACES: Sir?

20 MR. ESPINOSA: -- to your knowledge, what
21 is the age of -- of Officer Seminario?

22 LIEUTENANT LOACES: Right now today he's
23 21.

24 MR. ESPINOSA: And at the time of the event
25 that you have mentioned, how old was he, 20 -- 20

1 -- 20, too?

2 LIEUTENANT LOACES: On -- specifically on
3 March 27th, he was 20.

4 MR. ESPINOSA: How long have you been in
5 the -- in the --

6 MS. DILLON: Little closer, Mr. Espinosa,
7 please. There's an air blower.

8 MR. ESPINOSA: How long have you been a
9 police officer?

10 LIEUTENANT LOACES: Since July 23rd, 1990;
11 starting my 27th year.

12 MR. ESPINOSA: And it is fair to say that
13 as a police officer you have a fair knowledge of
14 the criminal law of the State of New Jersey?

15 LIEUTENANT LOACES: I would hope so at this
16 stage of the game, yes, sir.

17 MR. ESPINOSA: And that you know also the
18 -- the -- the laws -- the criminal laws with
19 respect to dispensation -- dispensation or sale
20 and conveyance of alcoholic beverages?

21 LIEUTENANT LOACES: Yes, sir.

22 MR. ESPINOSA: Are you familiar with
23 2C:33-15?

24 LIEUTENANT LOACES: Enlighten me.

25 MR. ESPINOSA: Well, I am going to -- to

1 | direct you to the fact that 2C:33-15 prohibits
2 | the possession or consumption of alcoholic
3 | beverage by anyone under the legal age.

4 | LIEUTENANT LOACES: Understood.

5 | MR. ESPINOSA: And if you're familiar with
6 | it isn't it true that at a time in which he
7 | alleges that he gained possession of this bottle
8 | of liquor, the -- the police officer was
9 | underage?

10 | LIEUTENANT LOACES: Yes. That's the whole
11 | purpose of the operation. Yes, you're correct.

12 | MR. ESPINOSA: But isn't it true that
13 | 2:33-15 only has exceptions to the application of
14 | that rule in 2C:33(c) -- (d) and (f)?

15 | Do you recall that? Or do you want me to
16 | -- to -- to show you the -- the -- the statute?

17 | LIEUTENANT LOACES: Please.

18 | MR. ESPINOSA: Okay.

19 | I direct you to the statute, which I have
20 | -- that I have the 2011 but it is still --

21 | LIEUTENANT LOACES: Close enough. We're
22 | good.

23 | MR. ESPINOSA: -- valid. 2C:15--

24 | MR. FARMER: Well, first of all, I -- I
25 | have a procedural objection to asking somebody a

1 question about a law on a book that's 2011.

2 MR. ESPINOSA: Well, --

3 MR. FARMER: All right?

4 And saying, well, here we are in 2'16 --
5 2016, take my word for it, it's the same. I just
6 think if you're going to be making an argument
7 and relying on something, you should rely on
8 something that's current, namely not something
9 dated 2011 but rather something 2'16 or 2'15.

10 MR. ESPINOSA: Okay, was it -- I want to
11 direct you to 2015, the -- the law. And below
12 it --

13 MR. FARMER: Well, wait, wait.

14 MR. ESPINOSA: -- below it --

15 MR. FARMER: Wait.

16 MR. ESPINOSA: -- (indiscernible) --

17 MR. FARMER: Is this -- is this not 2011?

18 MR. ESPINOSA: No, no, no. Let me -- let
19 me go to the -- to the -- to the law itself.

20 MR. FARMER: All right.

21 MR. ESPINOSA: This is the book that says
22 what law is but not when the -- the law was
23 enacted.

24 Read below it when the law was enacted.

25 MAYOR STACK: No, Lieutenant, --

1 MR. FARMER: What -- what --

2 MAYOR STACK: -- Lieutenant, you're not
3 going to read it.

4 You read it.

5 He's not going to read it. He's not being
6 directed --

7 MR. ESPINOSA: Okay.

8 MAYOR STACK: -- to read something.

9 MR. ESPINOSA: Well, -- oh.

10 Isn't it that it was adopted in 1979?

11 LIEUTENANT LOACES: I'm not sure what
12 you're referring to there.

13 MR. ESPINOSA: It is 2-15 here, 2C:--

14 LIEUTENANT LOACES: Thirty-three.

15 MR. ESPINOSA: --33-15. Isn't it that it
16 was adopted in 1979?

17 LIEUTENANT LOACES: Without reading
18 2C:33-15, I have to agree that it does say it was
19 adopted 1979. I have no idea what that is
20 though.

21 MR. ESPINOSA: And I want to -- to -- to
22 address, Mr. Farmer, are you stating that this
23 law is not in effect today in the --
24 (indiscernible)?

25 MR. FARMER: What law is it that you're

1 talking about?

2 MR. ESPINOSA: 2C:33-15.

3 MR. FARMER: And it would indicate it is
4 the law that says what, if I --

5 MR. ESPINOSA: Well, you are an attorney
6 and you -- and you are here --

7 MR. FARMER: No, no, --

8 MR. ESPINOSA: -- as the prosecutor of --

9 MR. FARMER: -- wait. Wait a second.

10 MR. ESPINOSA: Are you -- are you stating
11 that 2C:33-15 is not a law that is in active in
12 the State of New Jersey?

13 MR. FARMER: Mr. Espinosa, I'm here
14 prosecuting an offense of ABC violation.
15 Underage. This is not rocket science. If he was
16 underage and he bought something in a liquor
17 establishment, that's it.

18 We're not here to quiz me on the law of the
19 State of New Jersey or whatever. All I know is
20 that you're quoting from a book that's five years
21 old. All right?

22 So if you have a defense to it, let's hear
23 it.

24 But this business about, Farmer, tell me if
25 2:33.(a)(1) -- you're a lawyer in New Jersey, you

1 should know that. That's ridiculous.

2 MR. ESPINOSA: But you are not challenging
3 that there -- that there is a 2C:33-15 law that
4 is established in the Criminal Code of the State
5 of New Jersey --

6 MS. DILLON: Mr. Espinosa, you really need
7 to address your comments --

8 MR. ESPINOSA: Yeah, I under--

9 MS. DILLON: -- to the mic--

10 MR. ESPINOSA: -- I understand. I
11 understand.

12 MS. DILLON: I -- I know but then I'm not
13 going to be able to --

14 MR. ESPINOSA: Well, yeah, --

15 MS. DILLON: -- get a complete record.

16 MR. ESPINOSA: -- I -- I -- I -- I am
17 thankful that you remind me that.

18 MS. DILLON: Okay.

19 MR. ESPINOSA: Isn't it true that -- are
20 you challenging that there is a law, N.J.S.
21 2C:33-15?

22 MR. FARMER: Mr. Espinosa, please. I am
23 not going to get into a dialogue of what I
24 understand and what you understand.

25 The simple fact is I'm presenting a case.

1 Okay? If you feel that after I present the case
2 that it is legally factually deficient, you can
3 make your argument to the Board and they can make
4 a decision.

5 MR. ESPINOSA: Okay.

6 MR. FARMER: Okay?

7 MR. ESPINOSA: Fair enough.

8 Isn't it true that there are very different
9 sections in 2C:33-15?

10 LIEUTENANT LOACES: There are.

11 MR. ESPINOSA: And that section (d) and
12 section (f) put the only exceptions to the -- to
13 the -- to the not sale of -- to -- and possession
14 by underage persons in the State of New Jersey?

15 MR. FARMER: I -- I object to that question
16 because I don't think it -- it can be understood.
17 I -- I object to the phraseology of the question.

18 If you're asking him a specific question on
19 -- point it out to him and --

20 MAYOR STACK: Why don't you rephrase --

21 MR. FARMER: -- let's hear it.

22 MAYOR STACK: -- the question maybe?

23 MR. ESPINOSA: Yeah.

24 Are -- are there exceptions to 2C:33-15 at
25 -- in the -- in the statute?

1 LIEUTENANT LOACES: I haven't seen it. If
2 you'll show it to me I'll make a determination at
3 that time.

4 MAYOR STACK: And what was the question?
5 Were there exceptions was it?

6 MR. FARMER: Yeah.

7 LIEUTENANT LOACES: Specifically to that
8 statute.

9 MAYOR STACK: I just want to -- I didn't --
10 I didn't hear -- I can't -- this is a blower over
11 here.

12 MR. ESPINOSA: To the application.

13 MAYOR STACK: It's hard to hear.

14 MR. ESPINOSA: Yeah.

15 I'm sorry, Mayor.

16 Isn't it true that the only exceptions are
17 listed in 2C:33-15(d) and -- and 2C:33-15(f)?

18 You can read it.

19 LIEUTENANT LOACES: May I?

20 MR. ESPINOSA: Yeah, by all --

21 MR. FARMER: Could we please have --

22 COMMISSIONER FERNANDEZ: Wait. I -- I'm
23 sorry. Excuse me.

24 Mr. Espinosa, I'm -- I'm confused. Why --
25 why don't you just tell us what the law is and

1 | what you're arguing about --

2 | MR. ESPINOSA: Okay.

3 | COMMISSIONER FERNANDEZ: -- and present
4 | your case --

5 | MAYOR STACK: It might be easier. It just
6 | might be easier to --

7 | MR. ESPINOSA: Then -- then -- I am use to
8 | the procedure in court and therefore I try to be
9 | as thorough so that I don't leave gaps. But, you
10 | know, this is an administrative proceeding and
11 | you can ask that.

12 | MAYOR STACK: Right.

13 | MR. ESPINOSA: Yes. It has only the -- the
14 | following --

15 | If you want I read it completely?

16 | Okay.

17 | Nothing in this act shall apply to
18 | possession of alcoholic beverage by any such
19 | person while actually engaged in the performance
20 | of employee pursuant to a employment permit
21 | issued by the Director of the Division of
22 | Alcoholic Beverage Control, or for a bona fide
23 | hotel or restaurant, in accordance with the
24 | provisions of R.S. 33:1-26 or while actively
25 | engaged in the preparation of food, which while

1 enrolled in a culinary art or hotel management
2 program at a country (sic) vocational school or
3 post-secondary educational institution.

4 And that is (d).

5 (f) is an underage person and one of the --
6 and one or two other persons shall be immune from
7 prosecution under this section if one of the
8 underage person call 9-1-1 and reported that
9 another underage person was in need of a medical
10 assistance due to alcoholic consumption;

11 (2) the underage person was -- who call
12 9-1-1 and, if applicable, one or two other
13 persons acting in concert with the underage
14 person who call 9-1-1 provided each of their
15 names to the 9-1-1 operator.

16 The underage person -- now (3), the
17 underage person was the first person to make a
18 9-1-1 report; and

19 (4) the underage person and, if
20 applicable, one of the two other persons acting
21 in concert with the underage person who made the
22 9-1-1 call remain in the scene with the person
23 under the legal age in need of medical assistance
24 until assistance arrive and cooperated with the
25 medical assistant and law enforcement personnel

1 on the scene.

2 The underage person who receive medical
3 assistance also shall be immune from the
4 prosecution under this section.

5 MR. FARMER: I would ask that all that be
6 stricken because it is totally irrelevant. And
7 aside from not even understanding it and is not
8 applicable in any way, shape or form or resembles
9 the testimony that was just given.

10 MR. ESPINOSA: You see I am in cross-
11 examination now and Mr. Farmer has that penchant
12 all of the time that I know him to testify by --
13 by -- by making long statement.

14 But let me -- the law prohibit a minor --
15 that -- that means an underage person, less than
16 21 years old, to purchase and possess. And the
17 only exceptions are the one that I have read to
18 this. And, as a matter of fact, that I will be
19 arguing at the end with respect to what I call
20 stoppage -- estoppel for entrapment later on.

21 But there is no exception in the statute
22 for anyone other than those people. The
23 intention of the legislature to have been -- to
24 have police -- police underage to purchase and
25 have possession, then they will have put it in

1 the statute.

2 As a matter of fact the police officer that
3 is underage and goes in there, even identifying
4 himself and even showing the -- the -- the -- a
5 card that he's underage and he serve -- he serve
6 after he has reveal all those things, naturally
7 there will be consequences to the person who
8 provide it but he had committed a crime.

9 And -- and the crime is a disorderly person
10 as for this 2C:33(a) -- 15(a). And also it is
11 put him to be fined by a minimum of \$500.00 --
12 could be even higher. And then he has
13 immediately to submit to treatment.

14 So what we have here -- I -- I just ask
15 those questions and I want to put this in the
16 context that this police officer, in going --
17 going through the process with no exception under
18 the law, committed a crime.

19 And that will be my argument to a doctrine
20 in law which is called that he cannot use any
21 evidence that is the fruit of a poison tree
22 because he committed a crime in the process of
23 getting the evidence.

24 MR. FARMER: Are you finished?

25 MR. ESPINOSA: Now I'm going to go and ask

1 more questions --

2 MR. FARMER: Well, I just want to respond
3 to that.

4 MR. ESPINOSA: Oh, go ahead.

5 MR. FARMER: The situation I guess the
6 defense is that the cop committed the crime and
7 the person who sold it is totally innocent.

8 If that's the position, you can argue that
9 till the cows come home. Okay?

10 The simple fact --

11 MR. ESPINOSA: No.

12 MR. FARMER: -- is your client committed a
13 crime once she sold it to an underage person.
14 That's what this case is about.

15 MR. ESPINOSA: No because we will be
16 arguing about entrapment here.

17 MR. FARMER: Okay.

18 MR. ESPINOSA: Which, by the way, so that
19 -- that we make things clear, it is applicable to
20 civil cases, not to criminal cases. And let me
21 cite for your administration the cases of the
22 Supreme Court of the United States that said that
23 it's applicable to civil cases.

24 Sherman versus United State, 356 U.S. 369,
25 1990.

1 Sorrells versus United State, 287 U.S. 435,
2 1932.

3 And to administrative proceeding, under the
4 doctrine of entrapment by estoppel, United States
5 Santos versus -- United States of America versus
6 Stewart, 185 F.3d -- Third Circuit --

7 Third Circuit mean it's New Jersey.

8 -- certified denied 528, United State 1063,
9 1999.

10 I check all of those cases in what is
11 called Shepardizing them and they are stand and
12 valid cases.

13 Can we proceed now?

14 MR. FARMER: Yes. Are you finished asking
15 questions?

16 MR. ESPINOSA: No, I haven't --

17 MR. FARMER: All right. Okay.

18 MR. ESPINOSA: -- finished asking
19 questions.

20 MR. FARMER: All right.

21 MR. ESPINOSA: Had Union City Police used
22 entire locations in the time in which you have
23 been with Union City, minor underage police for
24 the purpose of doing this type of --

25 LIEUTENANT LOACES: Operation.

1 MR. ESPINOSA: -- viola-- violation of
2 2C:33-15?

3 MR. FARMER: I'm going to object to the
4 form of the question.

5 There's no -- there's no violation of
6 anything. If you're going to ask the man a
7 question, ask the man a question. But there's no
8 -- he can't add things in and make it an argument
9 or editorialize it.

10 So what's your question?

11 MR. ESPINOSA: Did Union City use underage
12 in a stinge (sic) operation before?

13 LIEUTENANT LOACES: Absolutely.

14 MR. ESPINOSA: How many of them?

15 LIEUTENANT LOACES: That I can personally
16 recall? Once.

17 MR. ESPINOSA: And how long ago was that?

18 LIEUTENANT LOACES: I want to say five, six
19 years ago perhaps.

20 MR. ESPINOSA: Let me go back a little
21 further.

22 Did you at any time or the Union City
23 Police apply with what is called a -- asking for
24 an opinion from the Attorney General to see if it
25 was constitutional to have an under and legal --

1 to have an underage police officer, less than 21
2 years old, did you apply, to your knowledge?

3 LIEUTENANT LOACES: Absolutely not.

4 MR. ESPINOSA: So it is fair to say that
5 this has been done without any advice of the
6 Attorney General of this State?

7 LIEUTENANT LOACES: Other than my, as you
8 stated earlier, experience for the last 27 years
9 in these matters and being someone familiar with
10 Title 2C, no.

11 MR. ESPINOSA: And have -- have anybody
12 challenge the -- in -- in Union City in court the
13 validity of the -- to your knowledge?

14 LIEUTENANT LOACES: You're the very first,
15 Mr. Espinosa.

16 MR. ESPINOSA: So it is fair to say that
17 this is a first instance.

18 Is that correct?

19 LIEUTENANT LOACES: We're all excited, yes.

20 MR. ESPINOSA: First impression.

21 By the way, what is the age of -- of
22 officers, to your knowledge, --

23 LIEUTENANT LOACES: Okay.

24 MR. ESPINOSA: -- that are hired by the
25 State Police?

1 LIEUTENANT LOACES: I don't --

2 MR. FARMER: The State Police?

3 LIEUTENANT LOACES: -- work for the State
4 Police. I don't --

5 MR. ESPINOSA: What about if I suggest to
6 you that you cannot be a State -- a State Police
7 Officer if you are not 21 years old?

8 MR. FARMER: I'm going to object to -- to
9 the relevancy of it.

10 What is the relevance?

11 MR. ESPINOSA: And the municipal police
12 allows 18 years old.

13 MR. FARMER: What is the relevancy --

14 MAYOR STACK: I wouldn't -- I wouldn't
15 answer that, Lieutenant.

16 MR. ESPINOSA: Are you -- are you -- do you
17 know what are the criteria for going to the
18 Police Academy?

19 MR. FARMER: Look, --

20 MAYOR STACK: You know what? What?

21 MR. FARMER: -- I'm going to object. This
22 is --

23 MAYOR STACK: Do we know what?

24 MR. FARMER: -- now going --

25 MAYOR STACK: I couldn't even hear the -- I

1 | couldn't hear him.

2 | MR. ESPINOSA: I said the criteria, in
3 | order for you to be admitted in the Police
4 | Academy.

5 | MR. FARMER: Now we're getting into the
6 | credentials of somebody entering into the Police
7 | Academy I guess. I don't know where we're going
8 | to go.

9 | All of this irrelevant. We're dealing with
10 | one day, one event. We're getting into things
11 | that are far afield and which is typical.

12 | MAYOR STACK: Let's just stay on the topic
13 | here.

14 | MR. ESPINOSA: It is -- it is relevant
15 | because it will show the dichotomy between two
16 | police -- two police institution. And the fact
17 | that the majority of the -- which will be
18 | presented -- the majority of the police officer
19 | in the State and in the police force at the
20 | municipality are older than 21 years old.

21 | MR. FARMER: What is the relevancy of that?

22 | This officer was under 21, --

23 | MR. ESPINOSA: Well, --

24 | MR. FARMER: -- he walks in, he buys
25 | something, he's underage and it's a fact.

1 MR. ESPINOSA: It's absolutely --

2 MR. FARMER: Why are we taking a survey --

3 MR. ESPINOSA: -- show that --

4 MR. FARMER: Wait a second. Please. Don't
5 interrupt me. I don't interrupt you.

6 -- taking a survey, I guess across the
7 country, is how old you got to be to be a police
8 officer in a particular locale.

9 And this is all irrelevant to the charge.

10 MR. ESPINOSA: Did you --

11 MR. FARMER: If he's going to say
12 entrapment, we can hear that.

13 MR. ESPINOSA: Did you -- did you finish
14 up?

15 Let me -- let me --

16 Isn't it true, --

17 MR. FARMER: I want to --

18 Wait. I want to --

19 MR. ESPINOSA: Isn't it true --

20 MR. FARMER: Wait a second. I want a
21 ruling as to whether or not this line of
22 testimony is relevant or irrelevant.

23 MAYOR STACK: It's not relevant.

24 COMMISSIONER MARTINETTI: It's not
25 relevant.

1 MAYOR STACK: It's not relevant.

2 Let's stay on the case at hand. And let's
3 proceed here and ask the questions that you have
4 and that's the bottom line.

5 MR. ESPINOSA: Well, I -- I -- I submit my
6 exception to that. But let me put in the record
7 why I believe that is relevant.

8 It's relevant because it will show -- my
9 line of question, that -- and I will ask him that
10 question -- that he doesn't know of any other
11 municipality in which they are using underage for
12 the purpose of a stinge (sic) operation.

13 MAYOR STACK: He has no reason to know or
14 not know.

15 Why is it relevant?

16 MR. ESPINOSA: Why? But he's -- he's -- he
17 -- then let him answer, Mr. Mayor.

18 MAYOR STACK: Yeah, I understand.

19 MR. ESPINOSA: Because he is the witness.

20 MR. FARMER: No. No. If -- he doesn't
21 have to answer irrelevant --

22 MAYOR STACK: It's not relevant to this
23 case.

24 MR. ESPINOSA: It is relevant to the case
25 because my client has all of his constitutional

1 right that he will have to raise it. If not
2 before here, in other previewing of any decision
3 that is made here. But I have to protect the
4 record and ask to this man does he knows of any
5 other municipality that use underage police
6 officer for the purpose of a stinge (sic)
7 operation?

8 MR. FARMER: I'm going to object. It's
9 irrelevant what other municipalities do. This is
10 a sworn --

11 MAYOR STACK: I agree.

12 MR. FARMER: -- officer who's been
13 appointed.

14 MAYOR STACK: I agree.

15 MR. FARMER: He's an officer.

16 MAYOR STACK: I agree.

17 MR. ESPINOSA: Do you --

18 MAYOR STACK: Let's proceed with the next
19 question.

20 MR. ESPINOSA: Do you know if the State
21 police officer have every use underage?

22 MR. FARMER: How would he know that?

23 MAYOR STACK: Irrelevant.

24 MR. ESPINOSA: Let me clarify something.
25 You said how many years ago was the last

1 stinge (sic) operation that you use underage?

2 LIEUTENANT LOACES: Five, six, seven years;
3 I don't recall exactly.

4 MR. ESPINOSA: And during that period of
5 time, so that I -- I want to make clear, --

6 LIEUTENANT LOACES: Sure.

7 MR. ESPINOSA: -- you -- you never
8 consulted with anyone, even attorneys for the
9 City about the -- the legality of the --
10 (indiscernible)?

11 LIEUTENANT LOACES: Well the last time this
12 was done I was not in charge of the unit. But,
13 no, I don't believe we did.

14 MR. ESPINOSA: Nor -- nor look for a -- an
15 opinion about the constitutionality of it?

16 LIEUTENANT LOACES: We're pretty certain
17 that we're on safe ground.

18 MR. ESPINOSA: Let's go on to other matters
19 now.

20 Did you -- why did you --

21 Well, let me -- I -- I withdraw.

22 Who was the person in charge of this
23 operation?

24 LIEUTENANT LOACES: That would be me, sir.

25 MR. ESPINOSA: And we can say also that --

1 | that you were the one that conceived that
2 | operation?

3 | LIEUTENANT LOACES: You could say that.

4 | MR. ESPINOSA: And when you did this
5 | operation was that target to every -- to every --
6 | to every alcoholic license establishment in the
7 | City of Union City?

8 | LIEUTENANT LOACES: We tried to do as many
9 | liquor stores, taverns and bars as we could, time
10 | allowing.

11 | MR. ESPINOSA: But my question is when you
12 | conceived and you decided to do this, it was
13 | addressed to -- the -- the end -- the objective
14 | was to go to every one that you could reach
15 | during this stinge (sic) operation?

16 | LIEUTENANT LOACES: As I stated, yes, to do
17 | as many as we could with the time allotted.

18 | MR. ESPINOSA: And if the time would allow
19 | to you to go to every one of them you will have
20 | done that?

21 | LIEUTENANT LOACES: I don't see why not,
22 | sure.

23 | MR. ESPINOSA: And that means anybody that
24 | had no -- a prior -- and that would be whether
25 | they have a prior or not a prior violation?

1 LIEUTENANT LOACES: Completely irrelevant.

2 MR. ESPINOSA: And that is because the City
3 of Union City is in charge -- has the police
4 officer -- the Police -- the Police of Union City
5 to be an arm for the enforcement of the -- of --
6 of the ABC --

7 MAYOR STACK: I don't know how you can
8 answer it because I don't understand the
9 question. So, just --

10 MR. ESPINOSA: Well, --

11 MAYOR STACK: Can I --

12 MR. ESPINOSA: -- if you don't understand
13 it, then I will rephrase it, --

14 MAYOR STACK: Absolutely.

15 MR. ESPINOSA: -- Mayor.

16 Does the City of Union City has a -- a
17 group of inspectors or separate group that will
18 go and try to inspect this -- the -- the licensee
19 for the purpose of violation?

20 LIEUTENANT LOACES: Not a group, per se,
21 no.

22 MR. ESPINOSA: Isn't it true that the only
23 group that is used by the -- by an agency of the
24 City that is used by the -- by the -- by the City
25 of Union City is the Police of Union City?

1 LIEUTENANT LOACES: The Detective Bureau.

2 MR. ESPINOSA: Yeah. But the Detective
3 Bureau is part of the Police of Union City?

4 LIEUTENANT LOACES: Yes.

5 MR. ESPINOSA: They don't have any other
6 function, is that correct, than being a police --
7 police officer, no?

8 MR. FARMER: Objection. This -- this is
9 irrel--

10 The Police have plenty of responsibilities.
11 You know, the -- it's not that the Police are
12 only responsible for the taverns. What would
13 happen with the streets and the --

14 MR. ESPINOSA: And what were the -- what
15 were the criteria for your selection of the
16 people, other than going after everyone, there
17 was -- was there any other criteria that you had
18 in order to do this investigation?

19 LIEUTENANT LOACES: That was pretty much
20 it. There really wasn't so much of a criteria.

21 There were a few places -- and I won't say
22 specifically which ones for obvious reasons,
23 which we -- I received recent, very recent
24 complaints, probably a few days before that. Not
25 your client. And we went to that place.

1 MR. ESPINOSA: And -- and do you have a --
2 a -- a record of calls --

3 LIEUTENANT LOACES: No.

4 MR. ESPINOSA: -- that those particular
5 places that you just mentioned had any type of
6 violation?

7 Did you have any 9-1-1 or -- or calls to be
8 dispatched about such --

9 LIEUTENANT LOACES: That's not how I --

10 MR. ESPINOSA: -- (indiscernible)?

11 LIEUTENANT LOACES: That's not how I get
12 this information, Mr. Espinosa.

13 I attend approximately a hundred community
14 meetings and during these community meetings
15 people from the public come up to me and they'll
16 say, hey, you know, thank you for coming out,
17 great job, keep doing a wonderful job, FYI the
18 liquor store down the block sells to kids.

19 MR. ESPINOSA: And when you --

20 LIEUTENANT LOACES: That's pretty much it.

21 MR. ESPINOSA: -- when you had those --
22 those community meeting, did you recorded what
23 these people had to say in writing, memoranda or
24 anything of that nature?

25 LIEUTENANT LOACES: No.

1 MR. ESPINOSA: So it is fair to say that
2 there is -- other than your affirmation, there is
3 no record of any of those complaints?

4 LIEUTENANT LOACES: Other than my word, no,
5 there isn't.

6 MR. ESPINOSA: And in those meetings,
7 community meetings, do you know if there was any
8 recording in those community meetings?

9 LIEUTENANT LOACES: No, there are no
10 recordings at community meetings.

11 MR. ESPINOSA: And do you have a list or
12 recollection of what community meetings were
13 they?

14 LIEUTENANT LOACES: A hundred of them? No.
15 I can't say that I could tell you that.

16 MR. ESPINOSA: Twenty?

17 LIEUTENANT LOACES: Twenty what?

18 MR. ESPINOSA: Twenty? Do you recall 20?

19 LIEUTENANT LOACES: I don't understand the
20 question.

21 MR. ESPINOSA: Well, you said that you
22 don't --

23 LIEUTENANT LOACES: I recall attending
24 them. I don't -- what specifics are you asking
25 me about?

1 MR. ESPINOSA: But you say in hundreds of
2 them. And I am asking what about 50 of them?

3 LIEUTENANT LOACES: What about 50 of them
4 what? Please finish your question.

5 MR. ESPINOSA: Fifty in which you recall
6 what -- what transpired in that and can identify?

7 LIEUTENANT LOACES: No. Nor do I have any
8 intention to --

9 MR. ESPINOSA: What about 20?

10 LIEUTENANT LOACES: No.

11 MR. ESPINOSA: Ten?

12 LIEUTENANT LOACES: Not even one.

13 MR. ESPINOSA: So you -- you were not
14 inside when Officer --

15 LIEUTENANT LOACES: Seminario.

16 MR. ESPINOSA: -- Seminario went inside and
17 had the alleged transaction?

18 LIEUTENANT LOACES: No I was not.

19 MR. ESPINOSA: So you cannot testify with
20 respect to what transpire there from being an
21 eyewitness to it?

22 LIEUTENANT LOACES: Correct, that I cannot
23 do.

24 MR. ESPINOSA: In reality you can only
25 testify because what he told you happen in there?

1 LIEUTENANT LOACES: That -- that's
2 accurate.

3 MR. ESPINOSA: I have no further question
4 of this --

5 Thank you.

6 MR. FARMER: Okay.

7 Thank you.

8 Oh, one other -- one other question.

9 MS. DILLON: Just to the microphone.

10 MR. FARMER: Yes, I'm sorry.

11 With respect to identifying bars, it was
12 indicated that you got some complaints at civic
13 or community functions.

14 Did you find out if any of these bars had
15 prior offenses?

16 LIEUTENANT LOACES: Some of them did.
17 After the fact I realized that they did, in fact,
18 have previous violations?

19 MR. FARMER: Did Reuben Liquor have a
20 previous violation for selling underage?

21 LIEUTENANT LOACES: Yes. Back in, I
22 believe it was 2010, they had a previous
23 violation for served underage.

24 MR. FARMER: And that --

25 Never mind. All right. I have no further

1 questions.

2 MR. ESPINOSA: I have -- (indiscernible).

3 From -- was Reuben a target of any
4 violation on that sting (sic) one that you did
5 in five years ago?

6 LIEUTENANT LOACES: I don't understand the
7 question.

8 MR. ESPINOSA: Well, you said that five
9 years ago there was a sting (sic) operation with
10 which underage police officer were used.

11 Was Reuben a -- a -- one of those that were
12 subject to that sting (sic) operation?

13 LIEUTENANT LOACES: I don't recall. We can
14 certainly go back to the computer five years and
15 pull it up.

16 MR. ESPINOSA: So you don't know at this
17 time if -- if that was part of -- of a sting
18 (sic) operation.

19 Is that correct?

20 LIEUTENANT LOACES: No.

21 MR. ESPINOSA: And you have not have at any
22 time -- well, how many times between 2010 and
23 2016 there -- have been there any Police presence
24 at Reuben's?

25 LIEUTENANT LOACES: I wouldn't know. I

1 work days.

2 MR. ESPINOSA: But you are the person that
3 is in charge of enforcing the -- the ABC.

4 Isn't that correct?

5 LIEUTENANT LOACES: Correct.

6 MR. ESPINOSA: And you will have -- and
7 will have the files of any of those report
8 between 2010 to today.

9 LIEUTENANT LOACES: They would be in the
10 computer somewhere I would assume. Sure.

11 MR. ESPINOSA: And if they are not been
12 providing to me is because certainly you don't
13 have it.

14 Is that correct?

15 LIEUTENANT LOACES: Or it's not relevant.

16 MR. ESPINOSA: Well, relevant is a matter
17 of law. Are you an attorney?

18 LIEUTENANT LOACES: No. Not at all.

19 MR. FARMER: Objection. Arguing.

20 LIEUTENANT LOACES: You're asking my
21 opinion.

22 MR. ESPINOSA: And during that period of
23 time, from '10 to 2016, --

24 LIEUTENANT LOACES: Um-hum.

25 MR. ESPINOSA: -- there was no -- any

1 | complaint about or any charges against Reuben's
2 | for anything that had to do with -- with minors
3 | receiving -- with underage receiving any liquor
4 | from them?

5 | LIEUTENANT LOACES: You lost me. What's
6 | the question?

7 | MR. ESPINOSA: Well, what I said there has
8 | been no -- any underage charge for --

9 | LIEUTENANT LOACES: Charge?

10 | MR. ESPINOSA: Charge or -- or notice or
11 | anything of that nature for -- for this place
12 | since 2010 to today to this one in particular?

13 | LIEUTENANT LOACES: I couldn't speak to
14 | that. You would have to speak to the night
15 | Sergeant of the Detective Bureau, Sergeant
16 | Dunlay. He would be more familiar with the day-
17 | to-day operations --

18 | MR. ESPINOSA: But when -- yeah but when --
19 | but you are the person who if that things were
20 | been done, they would have to --

21 | MS. DILLON: Closer, Mr. --

22 | MR. ESPINOSA: -- give you --

23 | MS. DILLON: -- Espinosa.

24 | MR. ESPINOSA: -- the information.

25 | Isn't that correct?

1 LIEUTENANT LOACES: That's not correct, no.

2 MR. ESPINOSA: Oh.

3 So you're saying that -- that they are not
4 here to testify.

5 Is that correct?

6 LIEUTENANT LOACES: He's standing right --
7 he's sitting right there.

8 MR. ESPINOSA: To testify about the calls
9 about this --

10 LIEUTENANT LOACES: You asked if he was
11 here. He's here, sir.

12 MR. ESPINOSA: And will he -- and those
13 calls they were done -- are they recorded --
14 Police --

15 When there is a call about Police -- a
16 complaint to the Police, are they recorded?

17 LIEUTENANT LOACES: If they call the 9-1-1
18 line, yes, it's taped.

19 Obviously if they call the Detective Bureau
20 or they call any other division, no, those lines
21 are not recorded --

22 MR. ESPINOSA: And --

23 LIEUTENANT LOACES: -- for confidentiality
24 reasons.

25 MR. ESPINOSA: And -- and you do not have

1 | even notes with respect to those call in order to
2 | do a follow-up investigation?

3 | LIEUTENANT LOACES: Follow-up investigation
4 | to what? You -- I'm sorry, --

5 | MR. ESPINOSA: To a complaint that was
6 | given to them over the telephone that is not --
7 | not 9-11.

8 | MR. FARMER: What?

9 | LIEUTENANT LOACES: You lost me completely.
10 | Sorry.

11 | MR. ESPINOSA: You said that if they are in
12 | 9-11 there will be a record of that.

13 | LIEUTENANT LOACES: If somebody calls 9-1-1
14 | a recording is made, yes.

15 | MR. ESPINOSA: Yeah.

16 | But if it is not and they call you and they
17 | complain and it is in that places that you said
18 | that you conceive to go and do operations and
19 | checking, did you take notes of those?

20 | MAYOR STACK: He already answered that
21 | before. He already answered the question before.

22 | MR. ESPINOSA: He doesn't.

23 | MAYOR STACK: He already answered it.

24 | MR. ESPINOSA: Yeah but I --

25 | MAYOR STACK: He answered it earlier, --

1 MR. ESPINOSA: Is that --

2 MAYOR STACK: -- Mr. Espinosa.

3 MR. ESPINOSA: -- is that what he said?

4 He doesn't?

5 It's a very simple thing.

6 MAYOR STACK: I -- I believe if you go back
7 and check the record, --

8 MR. ESPINOSA: It's --

9 MAYOR STACK: -- I believe he did.

10 MR. ESPINOSA: It's a very simple thing.

11 Do you do or do you not do that?

12 LIEUTENANT LOACES: I do not.

13 MR. ESPINOSA: Okay. Good.

14 I have no more question about this.

15 MR. FARMER: Just one last question. I'm
16 going to show you --

17 Can you have this marked? This marked.

18

19 (Whereupon, History Violation Report for
20 Reuben Liquors, was received and marked Exhibit
21 S-2.)

22

23 MR. FARMER: I'm going to show you what's
24 marked S-2, which is the History Violation Report
25 for Reuben Liquor. I'm going to direct your

1 attention to where it says, an offense
2 occurring --

3 Read that across.

4 LIEUTENANT LOACES: According to the City
5 of Union City ABC report it says the date is
6 10/30/2010. Under violation it says sale to
7 minors, date, and penalty served was suspended
8 from 11/29/2010 to 12/06/2010.

9 MR. FARMER: Okay.

10 Thank you.

11 MR. ESPINOSA: Do you know -- do you know
12 if there was any defense elevated by the people
13 in -- in -- the owner of -- of Reuben's during
14 that -- during that -- the proceedings of this
15 violation?

16 MR. FARMER: I'm going to object. And my
17 objection is this.

18 That we're not going to go back and reopen
19 something ten years ago. What -- what it is is
20 we have an official record as to what happened.
21 We're not going to open up and find out why did
22 that happen or who did that. Official record.
23 On such and such a date you pleaded guilty and
24 you got this sentence. Okay?

25 We don't -- we don't take a person who's

1 committed a crime after he's pleaded guilty and
2 then say, okay, let's have another -- another
3 trial six years later.

4 This is a record. A public record of what
5 took place. And what took place, he pleaded
6 guilty to underage back in --

7 MR. ESPINOSA: Well, --

8 MR. FARMER: -- 2010.

9 MR. ESPINOSA: -- I'm not going to -- to
10 engage in -- with Mr. Farmer in res judicata,
11 collateral estoppel and all of those things that
12 have to do with fully litigated matters.

13 Okay that I would reserve for any appeal
14 that we -- that may come in respect to this.

15 But it is also true, isn't it true, that
16 for six years there have been no problems of any
17 kind with this?

18 Now, is that --

19 MR. FARMER: Is there a question?

20 MR. ESPINOSA: I am -- I am -- I am
21 finished with him, are you?

22 MR. FARMER: Yeah but what you -- what you
23 just said was that a question?

24 MR. ESPINOSA: No. I am -- I'm just
25 making --

1 MR. FARMER: Then I'd ask that it be
2 stricken.

3 MR. ESPINOSA: -- a statement.

4 MR. FARMER: Thank you.

5 (Whereupon, there was a pause in the
6 proceedings.)

7 MS. DILLON: Officer, please raise your
8 right hand.

9 Do you affirm the testimony you're about to
10 give this Board is the whole truth?

11 OFFICER SEMINARIO: Yes.

12 MS. DILLON: If you could please state your
13 name and spell it for the record?

14 OFFICER SEMINARIO: My name is Officer
15 Jeffrey Seminario, S-E-M-I-N-A-R-I-O; I.D. 459 of
16 the Union City Police Department.

17 MR. FARMER: Officer Seminario, I'm going
18 to ask you some questions. Keep your voice up
19 and kind of speak into the microphone so you can
20 be heard.

21 OFFICER SEMINARIO: Okay.

22 MR. FARMER: You're a member of the Union
23 City Police Department?

24 OFFICER SEMINARIO: Yes.

25 MR. FARMER: And how long you been a member

1 of the Union City Police Department?

2 OFFICER SEMINARIO: I started my -- I made
3 one year this month in June 19.

4 MR. FARMER: Okay.

5 I'm going to direct your attention to March
6 of -- March 27, 2016.

7 Did you have occasion at that time to go
8 into Reuben Liquors?

9 OFFICER SEMINARIO: Yes.

10 MR. FARMER: And could you tell us why you
11 went into Reuben Liquors and when you went into
12 Reuben Liquors what took place?

13 OFFICER SEMINARIO: I went into Reuben
14 Liquors to try to purchase alcohol. When I went
15 in --

16 MR. FARMER: Were you acting in your
17 official capacity?

18 OFFICER SEMINARIO: No, I was in undercover
19 capacity.

20 MR. FARMER: Okay but you were a police
21 officer?

22 OFFICER SEMINARIO: Yes.

23 MR. FARMER: Okay. And you were working
24 from orders, were you not?

25 OFFICER SEMINARIO: Yes.

1 MR. FARMER: Okay.

2 OFFICER SEMINARIO: I was on duty but in
3 undercover capacity.

4 MR. FARMER: Okay.

5 Go ahead.

6 OFFICER SEMINARIO: I entered the liquor
7 store and I successfully purchased a 50
8 milliliter bottle of Smirnoff. And then that's
9 what I advised Detective Mendoza of the
10 successful purchase.

11 I was asked for identification, to which I
12 replied that I did not have identification; and I
13 was still sold the alcoholic beverage.

14 MR. FARMER: Well, let's run through this.

15 You walked in. When you walked in were
16 other customers there or were there no other
17 questions?

18 OFFICER SEMINARIO: No there was no --

19 MR. ESPINOSA: Objection to the form of the
20 question. It's not only leading but is also
21 compound.

22 MS. DILLON: Can't hear you, Mr. Espinosa.

23 MR. ESPINOSA: I said -- I am speaking loud
24 -- I said -- I said that it is leading and
25 compound.

1 MR. FARMER: Describe the premises when you
2 walked in and what you saw.

3 OFFICER SEMINARIO: When I walked in there
4 were no other customers; there was no line.
5 There was only one female behind the counter at
6 the cashier.

7 MR. FARMER: Okay.

8 My first question is, is that female in
9 here today?

10 OFFICER SEMINARIO: Yes she is sitting
11 right there.

12 MR. FARMER: Okay.

13 OFFICER SEMINARIO: With the polka dot.

14 MR. FARMER: And how long did the whole
15 incident take from the time you walked in to the
16 time you walked out?

17 OFFICER SEMINARIO: I was there for
18 approximately four minutes.

19 MR. FARMER: Okay.

20 Now, I'm going to show you this bottle,
21 which was in an exhibit that was marked S-1.

22 What is this?

23 OFFICER SEMINARIO: This is a 50 milliliter
24 bottle of Smirnoff green apple. And this is the
25 bottle that I purchased from Reuben Liquors.

1 MR. ESPINOSA: Objection. I am going to
2 object that he can say that it is the bot-- the
3 bottle that he at that time acquired because,
4 obviously, -- but, okay, there has not been
5 determined if even this is a bottle of alcoholic
6 beverage by a chemical laboratory obtain report.

7 MR. FARMER: This --

8 Okay, I -- I don't even want to respond to
9 that.

10 MAYOR STACK: Yeah, I -- I would just
11 let --

12 Just -- just continue.

13 MR. FARMER: Okay.

14 My -- my question is you walked in, you
15 picked this up, --

16 OFFICER SEMINARIO: Yes. It was in a -- a
17 container by the -- by the cashier.

18 MR. FARMER: Okay.

19 Now tell us everything about your
20 conversation, as best you could recall. What you
21 said and what the woman behind the counter said.

22 OFFICER SEMINARIO: Okay. I walked up to
23 the counter. There was a container of small
24 bottles like the Smirnoff that is front of me. I
25 opened the container. I removed one and I placed

1 | it on the counter. That's when the female behind
2 | the counter asked me for identification. I
3 | stated that I did not have my wallet on me, that
4 | I left it at home. She then asked me for -- what
5 | year I was born. I stated that I was born in
6 | 1993, which would make me 22. She then stated I
7 | believe you and she charged me for the Smirnoff
8 | bottle.

9 | I then asked her for a bag to place it in
10 | as for usual so that I'm not walking around with
11 | a container. She then refused to give me a bag
12 | and she told me to put it in my pocket. I then
13 | put it in my jacket pocket and exited the store.

14 | MR. FARMER: Is that the whole incident?

15 | OFFICER SEMINARIO: Yes.

16 | MR. FARMER: Okay.

17 | I have no further questions.

18 | MR. ESPINOSA: I do.

19 | Officer, when you walked in there --

20 | Well, let me go back.

21 | When you talk to --

22 | I withdraw it.

23 | When you were engage by Lieutenant Loaces
24 | for the purpose of this matter, you were given
25 | instruction of what to do; --

1 OFFICER SEMINARIO: Yes.

2 MR. ESPINOSA: -- is that correct?

3 But -- okay, you didn't go and discuss with
4 him his conception of this operation?

5 OFFICER SEMINARIO: I'm confused with your
6 question.

7 MR. ESPINOSA: Well, by that he didn't
8 discuss what were the aims that he was looking
9 for and why he had selected the -- the -- if any,
10 the stores that he was going to go and the
11 establishment that he was going to go?

12 OFFICER SEMINARIO: No. I had no knowledge
13 of why we went to the stores. I only was told to
14 go into the store and try to purchase alcohol.

15 MR. ESPINOSA: In fact, you didn't know
16 anything with respect to the history with this
17 store?

18 OFFICER SEMINARIO: No.

19 MR. ESPINOSA: Let's go step by step.

20 When you went there, okay, you knew that
21 you were a minor, --

22 OFFICER SEMINARIO: Yes.

23 MR. ESPINOSA: -- underage?

24 OFFICER SEMINARIO: Yes.

25 MR. ESPINOSA: So it was not a matter that

1 | you were confused or that -- of -- or that you
2 | somehow -- well, misguided.

3 | Is that correct?

4 | MR. FARMER: What do you mean?

5 | OFFICER SEMINARIO: Correct.

6 | MR. FARMER: Misguided on his age?

7 | What are we talking about?

8 | MR. ESPINOSA: You answer the question.

9 | MR. FARMER: What's the question?

10 | MR. ESPINOSA: Again I will repeat.

11 | You knew that you were underage, is that
12 | correct?

13 | OFFICER SEMINARIO: Yes, that I was 20
14 | years old.

15 | MS. DILLON: Officer, can you just come
16 | closer to the microphone?

17 | MR. FARMER: You got to speak in --

18 | MS. DILLON: That air blower is --

19 | OFFICER SEMINARIO: Okay.

20 | MS. DILLON: -- quite loud.

21 | MR. ESPINOSA: And when you came in did you
22 | have any form of identification on you?

23 | OFFICER SEMINARIO: I left --

24 | MR. ESPINOSA: No, no, no, no, no. I'm not
25 | talking about outside.

1 In your pocket or anywhere?

2 OFFICER SEMINARIO: I did not have any form
3 of identification on me at all.

4 MR. ESPINOSA: Not even a -- an
5 identification as a police officer for -- for --
6 to be used in any way whatsoever?

7 OFFICER SEMINARIO: No, I left my wallet
8 completely in the car.

9 MR. ESPINOSA: And when you -- when you
10 came ask for -- for identification -- for -- for
11 purchasing the bottle, isn't it true that you
12 were asked to produce your identity card?

13 OFFICER SEMINARIO: Yes.

14 MR. ESPINOSA: But you said that you did
15 not have the identity card?

16 OFFICER SEMINARIO: Correct.

17 MR. ESPINOSA: And you purposely left the
18 identity card because you were going to -- to --
19 you went for the aim of obtaining possession of
20 alcoholic beverage?

21 OFFICER SEMINARIO: I'm -- I'm confused on
22 your question.

23 MR. ESPINOSA: Well, when you went there
24 you decided no -- before go in there, not to have
25 your identity -- your identity card because you

1 | went there with the -- with the intention to --
2 | to possess -- to possess alcoholic beverage.

3 | Isn't that correct?

4 | OFFICER SEMINARIO: Well my I.D. wouldn't
5 | have helped me buy it; I was 20 years old.

6 | MR. ESPINOSA: Well, but I'm -- that is not
7 | my question. My question was not --

8 | OFFICER SEMINARIO: I'm --

9 | MR. ESPINOSA: Okay, my question was when
10 | you went there, --

11 | OFFICER SEMINARIO: I did not --

12 | MR. ESPINOSA: -- you went with
13 | intention --

14 | OFFICER SEMINARIO: -- bring it. I did
15 | not bring it in --

16 | MR. ESPINOSA: -- of not -- of not
17 | providing the I.D. because you wanted to obtain
18 | possession of alcoholic beverage being underage?

19 | OFFICER SEMINARIO: Correct.

20 | MR. ESPINOSA: The aim of this was to
21 | deceive the -- the person that was -- that was to
22 | -- to who you were addressing the purchase.

23 | Isn't that correct?

24 | MAYOR STACK: The -- the aim was for what?

25 | MR. ESPINOSA: Deceive.

1 MAYOR STACK: Okay.

2 MR. ESPINOSA: Your aim was to deceive that
3 person into believing that you were not underage.

4 Isn't that correct?

5 MS. NOVA: No. Hold on.

6 OFFICER SEMINARIO: My aim was to --

7 MS. NOVA: Hold on.

8 OFFICER SEMINARIO: -- purchase --

9 MS. NOVA: Hold on. No, hold on.

10 You were not underage, correct?

11 I mean you were underage?

12 OFFICER SEMINARIO: I was underage to buy
13 alcohol.

14 MS. NOVA: He was underage regardless.

15 MR. ESPINOSA: Are you part of this
16 transaction? You asking questions --

17 MR. FARMER: She is the --

18 MS. NOVA: Yes, I am the --

19 MR. FARMER: -- attorney --

20 MR. ESPINOSA: I -- you know, --

21 MR. FARMER: -- for the --

22 MS. NOVA: -- attorney --

23 MR. ESPINOSA: -- I want the --

24 MS. NOVA: -- for the Board.

25 MR. ESPINOSA: I want the record -- and I

1 -- I am addressing you --

2 MAYOR STACK: She's allowed to ask
3 questions.

4 MR. ESPINOSA: Yeah. She might ask
5 question but she is in the middle of my cross-
6 examination directing how this witness is to
7 answer.

8 MR. FARMER: That is absolutely untrue.

9 MAYOR STACK: She's asking a question. She
10 asked a question.

11 MR. FARMER: That is absolutely untrue.

12 MR. ESPINOSA: Not that it --

13 MAYOR STACK: She asked a question.

14 MS. DILLON: Wait.

15 MR. ESPINOSA: (Indiscernible) --

16 MR. FARMER: (Indiscernible) --

17 MR. ESPINOSA: -- time in which I --

18 MS. DILLON: Wait.

19 MR. ESPINOSA: -- am asking --

20 MS. DILLON: One at a time.

21 MR. ESPINOSA: -- questions.

22 MAYOR STACK: She asked a question.

23 MR. ESPINOSA: Well, we will see about the
24 propriety of that question.

25 MAYOR STACK: See about a lot of things, --

1 MR. ESPINOSA: Oh, yeah. We will.

2 MAYOR STACK: Yeah. Exactly.

3 MR. ESPINOSA: So you know that it was a
4 deception. You were not 21 years old.

5 OFFICER SEMINARIO: I was 20 years old.

6 MR. ESPINOSA: Okay.

7 And then she ask you what was your age?

8 OFFICER SEMINARIO: Correct.

9 MR. ESPINOSA: And you lie, isn't that
10 correct?

11 OFFICER SEMINARIO: Yes.

12 MR. ESPINOSA: And, in fact, you told her
13 that you were born in 1993?

14 OFFICER SEMINARIO: Correct.

15 MR. ESPINOSA: And that was another lie,
16 isn't that correct?

17 OFFICER SEMINARIO: Yes.

18 MR. ESPINOSA: Are you aware that that
19 establishment has a license to sell liquor in
20 bottles of 50 milliliter or -- or less?

21 OFFICER SEMINARIO: No.

22 MAYOR STACK: I don't -- I don't understand
23 the question. I didn't understand the question.

24 MR. ESPINOSA: Well, Mr. Mayor, they have
25 not only a license for the consumption of

1 alcohol, they can sell to -- to be taken outside
2 up to 50 milliliter of alcohol. That is their
3 license.

4 And I believe that can be corroborated --

5 MS. DILLON: Mr. Espinosa?

6 MR. ESPINOSA: -- by Lieutenant Loaces.

7 MR. FARMER: What is the relevance of it?

8 MAYOR STACK: Mr. Espinosa, do you mean to
9 serve alcohol or --

10 MR. ESPINOSA: No, they can sell bottles of
11 alcohol, --

12 MAYOR STACK: Okay.

13 MR. ESPINOSA: -- 50 milliliter or less.

14 MAYOR STACK: Okay.

15 MR. ESPINOSA: That is part of their -- of
16 their license.

17 So anybody can come in and purchase it and
18 walk with -- with it provided that naturally --

19 MAYOR STACK: Okay.

20 MR. ESPINOSA: -- they meet the requirement
21 of the law.

22 COMMISSIONER MARTINETTI: Right.

23 MAYOR STACK: Okay.

24 MR. ESPINOSA: So the fact that she -- that
25 you wanted it in a bags and she didn't have a bag

1 to give to you had nothing to do with the -- the
2 fact that she was telling to you the -- the type
3 of bottle that they are allowed under the
4 license.

5 Isn't that correct?

6 MR. FARMER: You understand the que--

7 OFFICER SEMINARIO: Correct.

8 MR. FARMER: Okay.

9 MR. ESPINOSA: Did you ever tell her at
10 anytime, look, I am underage and -- and I cannot
11 purchase and possess liquor?

12 OFFICER SEMINARIO: No.

13 MR. ESPINOSA: And you did all of that
14 because you wanted for her -- you -- you wanted
15 to induce her to sell you a bottle of -- of
16 alcohol.

17 Isn't that correct?

18 OFFICER SEMINARIO: I'm confused on the
19 question.

20 MR. ESPINOSA: Well, --

21 OFFICER SEMINARIO: I just told her I was

22 22 --

23 MR. ESPINOSA: The --

24 OFFICER SEMINARIO: -- years old.

25 MR. ESPINOSA: -- the purpose that you did

1 | this all, the lie of you being 22 years old, the
2 | lie of you being born in 1993, the -- the lie
3 | that you were of age, all of these lie were for
4 | -- to induce her, to make her to sell you this?

5 | OFFICER SEMINARIO: Correct.

6 | MR. ESPINOSA: Okay.

7 | I don't have any further questions.

8 | MR. FARMER: I don't have any questions.

9 | Thank you.

10 | MR. ESPINOSA: Okay.

11 | MR. FARMER: Officer Dunlay?

12 | Oh, one question.

13 | Just -- just one question.

14 | OFFICER SEMINARIO: Yes, sir?

15 | MR. FARMER: The licensee didn't ask you to
16 | sign any kind of piece of paper, did they?

17 | OFFICER SEMINARIO: No they did not.

18 | MR. FARMER: Okay, thanks.

19 | Okay, Detective Dunlay?

20 | Could we have this marked for
21 | identification?

22 |

23 | (Whereupon, VCO Summons Complaint issued on
24 | 3/27/2016, was received and marked Exhibit S-3.)

25 |

1 MAYOR STACK: Detective, what is your --
2 Sergeant, what is your official role?

3 SERGEANT DUNLAY: I'm sorry. I'm Detective
4 Bureau Night Supervisor, --

5 MS. DILLON: Let me swear him in.

6 SERGEANT DUNLAY: -- Union City Police.

7 MS. DILLON: Officer, please raise your
8 right hand.

9 Do you affirm the testimony you're about to
10 give this Board is the whole truth?

11 SERGEANT DUNLAY: I do.

12 MS. DILLON: Please state your name and
13 spell it for the record.

14 SERGEANT DUNLAY: David Dunlay, D-U-N-L-A-
15 Y. I'm a Sergeant, Union City Police Department,
16 I.D. 383.

17 MR. FARMER: Detective, I'm going to show
18 you what's been marked S-3.

19 Tell me whether you recognize it and tell
20 me where you got it.

21 SERGEANT DUNLAY: This is a VCO summons
22 complaint.

23 MR. FARMER: What's a VCO summons
24 complaint?

25 SERGEANT DUNLAY: A violation of city

1 ordinance.

2 MR. FARMER: Okay.

3 SERGEANT DUNLAY: It's court code
4 0910SC60154. It's made out by Detective Mendoza.
5 Issued on 3/27/2016 at 0015 hours for this charge
6 of sale to or serving a minor. Which is a
7 violation of VCO 58-9C. It was issued to Mayuri
8 Patel from 905 Liberty Avenue, North Bergen.

9 MR. FARMER: Now is Miss Patel the same
10 person who sold the officer the bottle of
11 Smirnoff liquor?

12 MR. ESPINOSA: Objection. Okay. Unless he
13 was there he cannot testify about that.

14 SERGEANT DUNLAY: Based on the reports
15 written by the officers that responded that day
16 listing her as the involved party and this
17 summons, it's a match.

18 MR. ESPINOSA: Reports are hearsay.

19 MR. FARMER: Well, --

20 MR. ESPINOSA: And even --

21 Wait, wait, okay let me finish please.

22 And even if a determined report might enter
23 into an exception, there is what is called
24 hearsay within hearsay and the statement here in
25 the report do not enter as evidence.

1 MR. FARMER: All right. Thanks.

2 Tell me what the outcome of -- was with
3 this ticket -- VCO.

4 SERGEANT DUNLAY: Well I obtained it from
5 the Union City Municipal Court, which finds a
6 plea of guilty issued on 4/13/2016, where there
7 was a fine of \$250.00, with court costs of
8 \$33.00.

9 MR. FARMER: Who pleaded guilty?

10 MR. ESPINOSA: I will -- I will again --

11 MR. FARMER: Please, can I finish?

12 MR. ESPINOSA: No, no, no.

13 MR. FARMER: Don't yell at me.

14 MR. ESPINOSA: I have to protect the -- the
15 -- the --

16 No, I project my voice. I don't yell --

17 MR. FARMER: No, no, --

18 MR. ESPINOSA: -- at you. And you're
19 pointing to me in a -- in a threatening way with
20 your finger. It's not the first time that you do
21 that.

22 MR. FARMER: Yeah. Okay.

23 Let's get --

24 MR. ESPINOSA: First of all, -- first of
25 all, it is objection. In order for this to have

1 any validity in here, there will have to be a --
2 a statement from the court that this is a valid
3 document.

4 And, secondly, what transpired in the court
5 is not here -- and by the way, for the -- for the
6 knowledge of the -- I have filed -- I have sent
7 to file a motion to vacate this on the basis of
8 entrapment and violation of the right of Mrs.
9 Mayuri to a -- to have effective and meaningful
10 assistant of counsel.

11 MAYOR STACK: All right, so --

12 MR. FARMER: Yeah.

13 MAYOR STACK: -- so you do admit though
14 your client plead guilty in municipal court?

15 MR. ESPINOSA: No, I do not admit.

16 MAYOR STACK: You said you --

17 MR. ESPINOSA: What I am saying --

18 MAYOR STACK: -- you applied --

19 MR. ESPINOSA: -- what I am saying --

20 MAYOR STACK: -- for a motion to vacate.

21 MR. ESPINOSA: On -- on the contrary.

22 What I'm saying is vacating something that
23 you have never been entered.

24 MAYOR STACK: But did your client plead
25 guilty in municipal court or not?

1 MR. ESPINOSA: As I said, --

2 MAYOR STACK: I'm sorry?

3 MR. ESPINOSA: -- I am not going to --

4 MS. DILLON: I can't hear.

5 MR. ESPINOSA: -- to --

6 MAYOR STACK: You're not going to answer
7 me?

8 MR. ESPINOSA: -- to -- I'm not going to be
9 answering a question of a matter of criminal
10 import that is before a court.

11 MAYOR STACK: I know but I have a right to
12 know.

13 MR. ESPINOSA: We will have -- we will
14 have --

15 But I will not answer. Because --

16 MAYOR STACK: All right.

17 MR. ESPINOSA: -- if -- if you don't -- if
18 -- I am also reminding you that there is a
19 precedent which require that a -- a matter that
20 is in the municipal court for a criminal or quasi
21 criminal has precedence over that administrative
22 proceeding.

23 MAYOR STACK: We're -- we're not saying it
24 does. We would just like to know.

25 MR. ESPINOSA: Well, I am not --

1 MAYOR STACK: The Board --

2 MR. ESPINOSA: -- going to answer that.

3 MAYOR STACK: -- the Board has a right to
4 know.

5 MR. ESPINOSA: I don't -- I am not
6 testifying.

7 MR. FARMER: Okay.

8 MAYOR STACK: I know. But the Board has a
9 right to know. I guess I'll --

10 MR. ESPINOSA: But I am not testifying.

11 MAYOR STACK: If you put your client up
12 I'll ask her.

13 MR. ESPINOSA: I am not a witness.

14 MAYOR STACK: Okay.

15 MR. FARMER: But let's --

16 MAYOR STACK: You put your client up --

17 MR. FARMER: -- let's get this --

18 MAYOR STACK: -- I'll ask her.

19 MR. FARMER: All right.

20 COMMISSIONER FERNANDEZ: But what's the
21 report say?

22 MR. FARMER: If -- if I might?

23 If I can get this straight. Ms. Patel
24 pleaded guilty to the charge sale to -- or serve
25 -- or serve a minor in municipal court.

1 Is that correct?

2 SERGEANT DUNLAY: Yes.

3 MR. FARMER: Okay.

4 Thank you.

5 MR. ESPINOSA: And my objection is there.

6 Were you in municipal court at the time?

7 SERGEANT DUNLAY: No, sir. But I did a --

8 if you would let me --

9 MR. ESPINOSA: Okay. I --

10 MR. FARMER: No. No.

11 MAYOR STACK: No, no, no, no, no.

12 MR. ESPINOSA: I move to strike.

13 MAYOR STACK: No, no, no, no, no.

14 MR. FARMER: Let him finish.

15 MAYOR STACK: You don't pick and choose

16 what you want him to answer and not answer.

17 Finish -- finish answering the question.

18 SERGEANT DUNLAY: As a law enforcement

19 officer I have access to the municipal court

20 systems, which we use on a regular basis to

21 conduct investigations. We did a search on the

22 summons complaint, which is accessed -- which we

23 as police officers have access to and that's when

24 it gives you the --

25 MAYOR STACK: And you did that --

1 SERGEANT DUNLAY: -- general printout.

2 MAYOR STACK: -- search yourself, Sergeant?

3 SERGEANT DUNLAY: Yes, sir.

4 MR. ESPINOSA: And I will -- I will --
5 first, you were not present and therefore you are
6 not comp-- competent to say what happened in
7 there.

8 And -- and furtherly, okay, this is a
9 document that has not been authenticated --
10 authenticated and, okay, found as a valid court
11 record.

12 COMMISSIONER MARTINETTI: But Mrs. --

13 MR. ESPINOSA: There's no proof shown in
14 here.

15 COMMISSIONER MARTINETTI: -- Mrs. Patel's
16 here, can we ask her directly?

17 MAYOR STACK: When she -- if he decides to
18 put her up.

19 MR. FARMER: Mr. Espinosa, Commissioner
20 Martinetti asked you a question.

21 MR. ESPINOSA: What is the question?

22 COMMISSIONER MARTINETTI: Mrs. Patel is
23 here present, correct?

24 MR. ESPINOSA: Yes.

25 COMMISSIONER MARTINETTI: Can we ask her --

1 MR. ESPINOSA: Well, --

2 COMMISSIONER MARTINETTI: -- to answer the
3 question?

4 MR. ESPINOSA: -- I not present -- there is
5 a criminal matter in process. I am not going to
6 allow her to testify.

7 MAYOR STACK: Okay.

8 COMMISSIONER MARTINETTI: Thank you.

9 MR. FARMER: Yeah.

10 The -- to your knowledge, after this plea
11 which was entered, --

12 When, April?

13 SERGEANT DUNLAY: April 13th.

14 MR. FARMER: -- May, June, was anything
15 filed to vacate anything or do anything?

16 SERGEANT DUNLAY: Nothing's listed in the
17 forms.

18 MR. FARMER: Okay. Fine.

19 I have no further questions.

20 MR. ESPINOSA: I have no further questions.

21 MR. FARMER: Okay.

22 Thank you.

23 MAYOR STACK: Thank you very much,
24 Sergeant.

25 SERGEANT DUNLAY: Thank you.

1 MAYOR STACK: Any other witnesses?

2 MR. FARMER: No. None.

3 MR. ESPINOSA: Am I closing? Or are you
4 closing?

5 MR. FARMER: Crossing? I'm finished. I'm
6 resting.

7 MR. ESPINOSA: I have -- I have my closing.

8 MR. FARMER: Okay.

9 You going to have any witnesses?

10 MR. ESPINOSA: No. I'm not going to have
11 any witness.

12 MR. FARMER: Okay.

13 Go ahead.

14 MR. ESPINOSA: If there is a case of
15 entrapment this is one. And not only of
16 entrapment but this evidence, okay, should be
17 simply not admitted. Why? Because there was a
18 criminal action by which it was -- it was
19 obtained. There was a clear violation of 2C:33-
20 15 with no exception.

21 When I directed my observations to section
22 (d) and (f) about the exception, is because even
23 in rules a judge will not have flexibility to
24 change it unless there is something stated in the
25 rule about that. The same thing with the

1 statutes.

2 If you don't have -- and there has been no
3 assertion here of any case law to the contrary.
4 If there has been no showing of a statute that
5 will -- that will give the right to a police
6 officer that is underage to violate the law by
7 committing a crime and then you see the fact that
8 he commit a crime in order to bring an action.

9 I bring to your attention the following:

10 There is a gradation here. Because this
11 court --

12 And I call it court because in reality it
13 functions like one as the first stage of an
14 administrative proceeding. And there have been a
15 lot of cases that shows that a proceeding in here
16 is of a quasi criminal character. Why? Because
17 there are penalties. There are suspension.
18 There, all of them, there are penalties. And,
19 therefore, is of a quasi -- and has the same
20 protection as a criminal matter with the
21 exception that it doesn't have the same statute
22 of 2C:33-15. That is for the legislature, passed
23 by the legislature, enforced by the legislature
24 with no exception than the one that -- in the --
25 in the statute.

1 What is the definition of entrapment?

2 There are a bunch of cases with respect to
3 that. And the -- the operative language is that
4 the purpose by which they went -- Officer
5 Seminar-- Seminario went in there was to deceive
6 a person that showed that he didn't have any
7 intention of giving him any liquor by asking for
8 the identity and he lied about it.

9 I -- I might bring something collateral.
10 If I --

11 MR. FARMER: I'm going to object if we're
12 going to bring in collateral.

13 MR. ESPINOSA: When I say a collateral
14 argument, okay, which is an inference that can be
15 made, if I am undercover and in order for me to
16 get a murderer I have to commit murder, that
17 person -- if that person in the commission of the
18 murder gets information about the other alleged
19 murder, those will not get in and he will be
20 found guilty.

21 So, Officer Seminario should be fined above
22 the \$500.00 and same to be treated at the -- at
23 the -- at a facility for alcoholic persons.

24 And not only that, everything that he
25 obtained because of that cannot come in. Is a

1 established doctrine that there is what is called
2 fruit of the poisonous tree. And through the
3 commission of a crime he obtain information which
4 he thinks that it can be used in here.

5 Second apparatus word and you can look at
6 all of the cases of entrapment, both on the --
7 the subjective test and the objective test. And
8 you will find that it was done only for inducing
9 someone that clearly when she asked for the --
10 for the -- the identification, did not have any
11 intention to commit -- to commit a crime.

12 But, you know something, another lie came.
13 How old are you? Twenty-two years old.

14 Two lies. For what purpose? Inducing her
15 to do what she didn't want to do like she showed
16 at the beginning when she ask for the I.D.

17 Furthermore, when were you born? 1993. A
18 third lie for the same purpose of inducing her to
19 give it.

20 That is what the entrapment defense is.
21 And it's not only applicable to criminal matter
22 but to civil and to administrative one.

23 I think that with the testimony elicited from
24 the people in here that there was no design of
25 any kind; it was something across-the-board to

1 everyone. And -- and Officer Loaces had to say
2 so. And the reason why he had to say so is
3 because he knows what is called equal protection
4 under the law. So he had to say that it was to
5 everyone and not that zeros on particular people
6 that will then make the City through -- through
7 him possible liable to violation of the equal
8 protection under the law.

9 I expect that these -- that the -- the
10 decision of this court is to get someone that
11 they had and -- and because of the problem -- the
12 -- the fact that she is in -- in a criminal
13 proceeding, which I have made an application to
14 -- I did not put her to talk about what happened
15 in that prior one. That will be for the
16 municipal court and for any other court that will
17 take that, either be the Superior Court of New
18 Jersey or the Appellate Division.

19 But, oh come on, look around, there is no
20 one single municipality that use underage. And
21 without any quiver, the Police of Union City
22 didn't go to the Attorney General and try to find
23 out, okay, by an opinion of the Attorney --
24 Attorney General that this was correct. Nor went
25 to corporate counsel to find out if it was

1 constitutional.

2 Reckless? Very reckless. Because it
3 potentially subject the City to the possibility
4 of suits for violation of civil right and
5 constitutional right.

6 But the small, again, elects of something
7 that should not be done. Don't have underage
8 police officer which are not used -- and that is
9 the reason -- I know that the State has an 18
10 years old and I didn't want -- and I could go to
11 see how he became a police officer, all of his
12 credential and all of that and challenge that but
13 I don't believe that this is the base.

14 Okay. But don't have to act like that.
15 My -- you know, I have in the past have my -- my
16 quarrel with the -- with the Mayor. And I say my
17 quarrel as -- as an attorney because I don't have
18 anything personal against him. But I believe
19 that the Mayor will not go in that direction and
20 -- and -- and to do again and again this type of
21 thing that opens the City to violate.

22 I am not longer a resident in Union City
23 but I had very good years here because I marry
24 when -- when -- and had my childrens -- my three
25 childrens when I was in Union City. But this is

1 not how this City should go in a direction when
2 there will be a problem of this -- of this kind.

3 Look at these people. Six years ago there
4 was something. And they learned. They learned
5 because that was the question that was -- the
6 first question that came from a jury by the same
7 statement of the police officer was did you have
8 an identity card.

9 I ask this -- this Commission not to look
10 at the history of my many times that I've been
11 before -- before it or to any other thing and the
12 fact that we have here something in which real
13 justice -- a sense of commonsense and
14 practicality should be.

15 When I -- I am going to -- to do something
16 which I -- which I might raise later on. There
17 are even situations that do not require a
18 suspension. I know that the City of Union City
19 doesn't allow conversion -- as a matter of fact,
20 of two cities throughout the whole State, unless
21 that has changed since the time in which I look
22 at it -- only two cities in the -- and -- and
23 municipality in the State do not convert
24 suspension day into money.

25 I -- I do not question the reasons why.

1 Okay, I -- I believe that there have been court
2 rule which I intend to challenge if a case come
3 that that -- that there is a deference to the
4 City of looking for it.

5 But there are many things that I believe
6 this Commission, together with the -- with the --
7 the assistance of corporate counsel can take into
8 consideration after they render a decision of
9 let's say, quote/unquote, not guilty with respect
10 to my client.

11 Thank you.

12 MAYOR STACK: Mr. Farmer, if you could just
13 give me just five -- two minutes. I'm just going
14 to use the men's room real quick.

15 COMMISSIONER FERNANDEZ: Let's get off the
16 record please.

17
18 (Whereupon, the Board recessed from 5:18
19 p.m. to 5:21 p.m.)

20
21 ACTING CITY CLERK: Back -- back on record.

22 MS. DILLON: On the record.

23 MR. FARMER: Okay.

24 I will not be long in summing up. However,
25 I want to thank the Board for its patience and

1 | also accommodating everybody being it the eve of
2 | the July 4th weekend. It's now about four or five
3 | o'clock in the evening and I appreciate
4 | everybody's help in trying to get this resolved.

5 | Now it appears that the situation is that
6 | the culprit here is the police officer. He's the
7 | one who committed the crime, not the person who
8 | went to court and pleaded that she committed the
9 | crime. But, nevertheless, it's the police
10 | officer.

11 | She didn't do anything criminally. She
12 | didn't sell to somebody underage. She didn't
13 | sell to somebody something that she wasn't
14 | supposed to sell.

15 | People get a liquor license; run a liquor
16 | store. If you're running a liquor store there's
17 | a few things that you have to just keep in mind
18 | and one of the paramount things, don't sell to
19 | underage people. This isn't a bar where you have
20 | fights, you have this, that or the other thing.
21 | They sell liquor. And the deal is sell it to
22 | somebody who's of age.

23 | There is undisputed evidence it was sold to
24 | somebody who was underage. That is undisputed.
25 | They didn't produce anybody.

1 And this business about -- look, he can say
2 anything you want, actions speak louder than
3 words. The fact of the matter is she went into
4 court, she pleaded guilty, she got a fine, she
5 paid the fine and now we come to July and
6 suddenly somebody says, oh I want to do that over
7 again. Why? Because it's going to affect this
8 particular case. They want it to be influence in
9 this case.

10 What's before you is that she pleaded
11 guilty to selling underage to -- to the police
12 officer on March 26 -- 27. That's what she said
13 in open court. Okay?

14 Mr. Espinosa wants to talk about -- I don't
15 know what he wants to talk about, that she didn't
16 have an attorney. Whatever the choice was, she
17 went into court, she raised her right hand, she
18 said under oath I sold to an underage person.
19 That is undisputed. It was undisputed then.
20 It's undisputed now. They produced no facts. No
21 facts. All right? No testimony.

22 They didn't put any client on. They didn't
23 say -- she said induce. All right? Well, was
24 she induced back in 2010? Woman has a track
25 record or the bar -- or the liquor store has a

1 track record. All right?

2 They went in there. The -- the person said
3 I want to buy this. Really? Not a -- not a big
4 deal investigation into age. The guess is what
5 they -- what -- what year were you born? Okay,
6 you answered it right, you're fine, you can take
7 it and you can buy it and you can go out with the
8 alcohol.

9 The only thing they're supposed to do --
10 and it's told to them in books, they've had
11 experience with it -- don't sell to underage.
12 All right. There's even a way they could do it
13 if they fill out an affidavit. Didn't even
14 attempt that. No attempt whatsoever.

15 No facts to dispute anything. No
16 testimony. Gee, he tricked me. He did this. I
17 felt this way. I did that.

18 The reality is she knew what she was doing.
19 And this business about, oh, gee, where's your
20 identification. Conversation should have stopped
21 at the end of that. Okay? I can't sell it to
22 you if you don't have any identification. All
23 right.

24 But she was greedy. This little bottle
25 isn't going to change anybody's life. But there

1 | they were. Nobody's gone see this. Nobody's
2 | going to know this. I'm going to sell it. Okay?

3 | The fact of the matter is she didn't do any
4 | kind of real investigation into somebody's age
5 | and all she had to do was say no. But she didn't
6 | say no. She saw an opportunity to sell
7 | something, she sold it and be damned as far as
8 | proof of age is concerned.

9 | You're also familiar with the area being
10 | the Commissioners. That area is probably is one
11 | of the most -- other than the high school, is
12 | probably the most infested underage people --

13 | MR. ESPINOSA: I don't think that there
14 | have been --

15 | MR. FARMER: -- in the --

16 | MR. ESPINOSA: -- no testimony --

17 | MR. FARMER: I'm -- I'm asking you --

18 | MR. ESPINOSA: -- of any kind --

19 | MR. FARMER: Please.

20 | MR. ESPINOSA: -- with respect to --

21 | MR. FARMER: Please.

22 | MR. ESPINOSA: You cannot do that --

23 | MR. FARMER: I'm asking --

24 | MR. ESPINOSA: -- when you are closing.

25 | MR. FARMER: I'm asking --

1 MR. ESPINOSA: It has to be based --

2 MR. FARMER: Okay.

3 MR. ESPINOSA: -- on the --

4 MR. FARMER: Can we have him --

5 MR. ESPINOSA: -- on the --

6 MR. FARMER: -- be quiet?

7 MR. ESPINOSA: -- testimony.

8 MR. FARMER: Okay.

9 I'm asking you to use your own commonsense.

10 You're in the neighborhood. You're familiar with
11 the neighborhood. You take -- you take your own
12 commonsense and take into consideration your
13 experiences. That area is filled with kids.

14 Now, the fact of the matter is the Police
15 said let's go in that liquor store and see --
16 because a few years ago they sold -- see if
17 they'll sell liquor.

18 This wasn't a hard sell, ladies and
19 gentlemen. He walked in, picked up a bottle,
20 handed her some money. You of age? Yeah. You
21 got proof? No, I don't have it. Okay, that --
22 that's okay. Bring the -- bring the proof in
23 next time.

24 All right? That's how fast this went.

25 There was real no agony over this. She sold it

1 | when she had the opportunity and he -- he was
2 | underage.

3 | The liability of civil -- it's just so
4 | perplexing. Civil liability. The police
5 | officers are enforcing the law. The law says you
6 | can't sell liquor to somebody under 21. But
7 | somebody under 21 went in and bought liquor.
8 | Whose fault is that; that's the liquor store's
9 | fault. And that's what we're saying.

10 | And it's not as if I didn't know.

11 | Number one, you know when you get the
12 | license. You get the rules and regulations. You
13 | know it because it's obvious you can't sell
14 | underage. And finally you know it because you've
15 | gone through this once before. Same people.
16 | Same deal. Same situation.

17 | I don't have anything else to say. It's --
18 | I know we went through a lot of histrionics here.
19 | But the reality of it is, is that there is no
20 | proof of anything. They didn't even testify.
21 | Woman didn't testify and say, oh gee, I was
22 | induced, I was this, that and --

23 | Nothing. Nothing. Nothing. They have
24 | produced nothing to contradict --

25 | MAYOR STACK: What is the recommended

1 penalty, Mr. Farmer, under -- under what the
2 State recommends on it?

3 This would be a -- is this a second
4 offense?

5 MR. FARMER: No. No, it's not a second
6 because it's not within the two year period.

7 MAYOR STACK: Okay.

8 MR. FARMER: Okay?

9 But if it was a second it'd be 30 days.

10 It's 15 days as a recommended minimum. You
11 can do whatever you want given the circumstances.

12 MAYOR STACK: Okay.

13 MR. FARMER: Okay?

14 MR. ESPINOSA: May I? May I?

15 MR. FARMER: I'm going to object. We're
16 finished. He gets a say.

17 MR. ESPINOSA: No.

18 MR. FARMER: I get a say. It's over.

19 MR. ESPINOSA: You -- you and I are taught
20 that if you -- if -- if the Commission is going
21 to impose and decide --

22 MR. FARMER: We've already decided that.

23 MR. ESPINOSA: -- in the direction --

24 MR. FARMER: I -- I told you that if
25 there -- if your client loses, the Board has

1 indicated that they will give you time until next
2 week to go and get an ad interim.

3 MR. ESPINOSA: That mean on the 12th.
4 That's what you said. Until the 12th.

5 MR. FARMER: No, I didn't --

6 MR. ESPINOSA: So that I --

7 Yes. You said --

8 MR. FARMER: Don't tell me --

9 MR. ESPINOSA: -- until the 12th.

10 MR. FARMER: -- what I said.

11 I said --

12 MS. DILLON: Go back to the microphone, Mr.
13 Farmer, please.

14 MR. FARMER: I said if the Board doesn't
15 decide it today they would decide it on the 12th.
16 But in any event if they decided it this evening
17 they would accommodate your client and get them
18 -- and let them have a chance to get an
19 ad interim, rather than closing them up tonight.

20 That's what I said.

21 And I'm not going to get into arguing about
22 this, that or the other thing. I'm not going to
23 get in an argument with you. So, be clear on --

24 MR. ESPINOSA: Well, I am not going to get
25 into -- into an argument. But the understanding

1 | was that any decision, even if it's done today,
2 | will not enter into effect until the 12. And,
3 | clearly, okay, for reasons that are obvious.
4 | Okay. That -- that was the understanding. And
5 | that is -- that is if you decide.

6 | And I don't want that this application will
7 | be -- be in any way construed as that I am making
8 | an admission with respect to my client about the
9 | -- the validity of their position. It was -- was
10 | only that this is the long weekend and it will
11 | not be possible for any action to intervene at a
12 | higher court, okay, during this long weekend.

13 | MAYOR STACK: What -- what was the penalty
14 | -- what's the penalty recommended by the State
15 | ABC?

16 | MR. FARMER: For a first offense it's 15
17 | days.

18 | MAYOR STACK: Okay.

19 | MR. FARMER: Okay.

20 | MR. ESPINOSA: Mr. Mayor, I don't know if
21 | that is correct. But if it is not then I will
22 | approach you by a letter.

23 | MAYOR STACK: Okay.

24 | Mr. Farmer, you have anything that you
25 | could reference the Board?

1 MR. FARMER: On the -- on the penalty?

2 MAYOR STACK: Yes.

3 MR. FARMER: Yeah. Hold on. Just give me
4 a second.

5 (Whereupon, there was a pause in the
6 proceedings.)

7 MR. FARMER: Okay, page 70 of the Alcohol
8 Beverage Control Handbook, sale to or consumption
9 by underage, 15 days.

10 MAYOR STACK: And you're citing what
11 booklet?

12 MR. FARMER: I'm citing the ABC Rules and
13 Regulations that's given to every licensee when
14 they -- when they start --

15 MAYOR STACK: Okay.

16 MR. ESPINOSA: What year is that, Mr.
17 Farmer?

18 MR. FARMER: Well, let's see. Seems to be
19 -- hmm, I don't have a date. But I've had this
20 for a while. And this is where I got it. Right
21 there.

22 MR. ESPINOSA: I believe, Mr. Mayor, that
23 the best thing to do is that we ascertain what is
24 the -- the precedent, not -- and not from the --
25 from just a -- the -- the handbook, which is not

1 an official statement of the law, that we go into
2 the schedule that is now in place. And then it
3 might be that is more, I don't know.

4 But -- but in that way we are certain of
5 the type of -- of penalties that are appropriate.
6 And -- and when I say appropriate, I'm saying as
7 to the -- I -- I should change the word
8 appropriate to applicable. To applicable.

9 And that doesn't -- what it takes that we
10 either send it to you by fax or email by Tuesday.

11 MR. FARMER: I'm -- what I'm saying to you
12 is I'm telling you as the lawyer for the ABC, the
13 penalty is 15 days.

14 If Mr. Espinosa disputes that or wants to
15 contradict that, he certainly can. But I'm
16 telling you absolutely, categorically, make no
17 mistake about it, it's a 15 day penalty.

18 So if he wants to send something, send it.
19 But I'm representing to you that it's a 15 day
20 penalty.

21 MR. ESPINOSA: Okay.

22 MAYOR STACK: Okay.

23 MR. ESPINOSA: That was your
24 representation.

25 MAYOR STACK: Right.

1 Motion -- motion to approve 15 day penalty.

2 ACTING CITY CLERK: Motion made by Mayor
3 Stack.

4 COMMISSIONER RIVAS: Second.

5 ACTING CITY CLERK: Second by Commissioner
6 Rivas.

7 Roll call.

8 Commissioner Fernandez?

9 COMMISSIONER FERNANDEZ: Yes.

10 ACTING CITY CLERK: Commissioner Rivas?

11 COMMISSIONER RIVAS: Yes.

12 ACTING CITY CLERK: Commissioner
13 Martinetti?

14 COMMISSIONER MARTINETTI: Yes.

15 ACTING CITY CLERK: Mayor Stack?

16 MAYOR STACK: Yes.

17 When -- when will this be put on for -- to
18 begin?

19 I think that was the question that was in
20 dispute here.

21 MR. FARMER: Yeah.

22 MAYOR STACK: So, you'll have it on, what,
23 the next Commission meeting?

24 MR. FARMER: Yes. Yes. The --

25 MAYOR STACK: I got it. Okay.

1 MR. ESPINOSA: Okay. That is the 12th. Am

2 I correct, --

3 MR. FARMER: Yes. Yes.

4 ACTING CITY CLERK: The 12th.

5 MR. FARMER: Where's it going to be?

6 MAYOR STACK: The 12th.

7

8 **ADJOURNMENT:**

9

10 COMMISSIONER RIVAS: Motion to adjourn.

11 MAYOR STACK: Thank you very everybody.

12 ACTING CITY CLERK: Mayor, there are no --

13 MR. FARMER: Tomas?

14 ACTING CITY CLERK: -- other items --

15 MR. FARMER: Oh, I --

16 ACTING CITY CLERK: -- on the agenda.

17 Is there a motion to adjourn at this time?

18 MR. FARMER: Tomas?

19 COMMISSIONER FERNANDEZ: Motion.

20 MR. ESPINOSA: Yeah?

21 MAYOR STACK: I got to go do the weddings.

22 ACTING CITY CLERK: Motion.

23 All in favor?

24

25 (Whereupon, there was a chorus of ayes.)

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(Whereupon, the proceedings were concluded
at 5:33 p.m.)

1	_____	Brian P. Stack
2	_____	Lucio P. Fernandez
3	_____	Maryury A. Martinetti
4	_____	Tilo E. Rivas

5 **Board of Commissioners**

6

7

Attest:

8

Dominick Cantatore,

9

Acting City Clerk

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1 STATE OF NEW JERSEY:

2 :

3 COUNTY OF ESSEX :

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5 I, KAREN A. MARINO, assigned transcriber,
6 do hereby affirm that the foregoing is a true and
7 accurate transcript in the matter of the REGULAR
8 MEETING of the UNION CITY BOARD OF COMMISSIONERS,
9 heard on Friday, July 1, 2016 and digitally
10 recorded.

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25 Monitored and Proofread by: Deborah Dillon