

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

REGULAR MEETING :
: TRANSCRIPT OF RECORDED
: PROCEEDINGS
:

Roosevelt School
4507 Hudson Avenue
Union City, New Jersey

Tuesday, January 17, 2017
Commencing at 7:02 p.m.

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

MARYURY A. MARTINETTI, COMMISSIONER
CELIN J. VALDIVIA, COMMISSIONER
TILO E. RIVAS, COMMISSIONER
BRIAN P. STACK, MAYOR

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

LUCIO P. FERNANDEZ, COMMISSIONER

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

ERIN KNOEDLER, DEPUTY CITY CLERK

SCARINCI HOLLENBECK
BY: KRYSTLE NOVA, ESQ.
BY: PATRICK J. McNAMARA, ESQ.
Corporation Counsel

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

FRED HEYER, Planning Consultant

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

TOMAS R. PANEQUE, ESQ.

Attorney for Don Ramon, Inc. t/a Don Ramon

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1 MAYOR STACK: Okay.

2 We're ready.

3 DEPUTY CITY CLERK: This is a Regular
4 Public Meeting of the Union City Board of
5 Commissioners being held on Tuesday, --

6 MAYOR STACK: If we could get everybody's
7 attention please?

8 DEPUTY CITY CLERK: -- January 17th, 2017,
9 at seven p.m. at Roosevelt School.

10 Please stand for the Pledge of Allegiance.

11

12 (Whereupon the Pledge of Allegiance was
13 said by all.)

14

15 DEPUTY CITY CLERK: This meeting has been
16 called in accordance with the Open Public
17 Meetings Act.

18 Adequate notice of the meeting has been
19 provided to The Jersey Journal, The Record, The
20 Hudson Reporter, and has been posted on the
21 bulletin board at City Hall and made available to
22 the public in the Office of Municipal Clerk.

23

24 **ROLL CALL:**

25

1 DEPUTY CITY CLERK: Roll call.

2 Commissioner Fernandez is absent.

3 Commissioner Rivas?

4 COMMISSIONER RIVAS: Here.

5 DEPUTY CITY CLERK: Commissioner Valdivia?

6 COMMISSIONER VALDIVIA: Here.

7 DEPUTY CITY CLERK: Commissioner

8 Martinetti?

9 COMMISSIONER MARTINETTI: Here.

10 DEPUTY CITY CLERK: Mayor Stack?

11 MAYOR STACK: Here.

12

13 (Whereupon, the Board discussed and took
14 action on the following item:

15 **APPROVAL OF PREVIOUS MEETING MINUTES FROM**
16 **DECEMBER 20, 2016 AND JANUARY 3, 2016 (SIC).)**

17

18 DEPUTY CITY CLERK: The first item on the
19 agenda is -- agenda is the Approval of Board of
20 Commissioner Meeting Minutes held on December
21 20th, 2016 and January 3rd, 2017.

22 COMMISSIONER VALDIVIA: Motion.

23 DEPUTY CITY CLERK: Can we have a motion to
24 approve?

25 COMMISSIONER RIVAS: Motion.

1 DEPUTY CITY CLERK: Motion --

2 MAYOR STACK: Second.

3 DEPUTY CITY CLERK: -- made by Commissioner
4 Valdivia.

5 Seconded by Mayor Stack.

6 Commissioner Rivas?

7 COMMISSIONER RIVAS: Yes.

8 DEPUTY CITY CLERK: Commissioner Valdivia?

9 COMMISSIONER VALDIVIA: Yes.

10 DEPUTY CITY CLERK: Commissioner
11 Martinetti?

12 COMMISSIONER MARTINETTI: Yes.

13 DEPUTY CITY CLERK: Mayor Stack?

14 MAYOR STACK: Yes.

15

16 (Whereupon, the Board discussed and took
17 action on the following item:

18 **ORDINANCE (S) FOR INTRODUCTION:**

19 1. ORDINANCE OF THE CITY OF UNION CITY, COUNTY
20 OF HUDSON, NEW JERSEY, CANCELLING CERTAIN
21 UNFUNDED APPROPRIATION BALANCES HERETOFORE
22 PROVIDED FOR VARIOUS CAPITAL IMPROVEMENTS.)

23

24 DEPUTY CITY CLERK: We have one Ordinance
25 on for Introduction tonight.

1 The Ordinance will be further considered at
2 the meeting of the Board of Commissioners to be
3 held on February 7th, 2017, at Washington School,
4 3905 New York Avenue, Union City, New Jersey.

5 The Ordinance is the Ordinance of Union
6 City, County of Hudson, Cancelling Certain
7 Unfunded Appropriation Balances Heretofore
8 Provided for Various Capital Improvements.

9 May I have a motion to introduce?

10 COMMISSIONER RIVAS: Motion.

11 DEPUTY CITY CLERK: Motion made by
12 Commissioner Rivas.

13 COMMISSIONER VALDIVIA: Second.

14 DEPUTY CITY CLERK: Second by Commissioner
15 Valdivia.

16 Commissioner Rivas?

17 COMMISSIONER RIVAS: Yes.

18 DEPUTY CITY CLERK: Commissioner Valdivia?

19 COMMISSIONER VALDIVIA: Yes.

20 DEPUTY CITY CLERK: Commissioner
21 Martinetti?

22 COMMISSIONER MARTINETTI: Yes.

23 DEPUTY CITY CLERK: Mayor Stack?

24 MAYOR STACK: Yes.
25

(Whereupon, the Board discussed and took
action on the following items in total:

CONSENT AGENDA:

(1) Resolution Approving the Payment of Claims

(2) Resolution Approving the Payment of
Concurring Claims

(3) Resolution Approving the Payment of Escrow
Refunds

(4) Resolution Approving the City Payroll for
the Period of December 24, 2016 through January
6, 2017

(5) Resolution Approving the Library Payroll
for the Period of December 24, 2016 through
January 6, 2017

(6) Resolution Approving the Public Safety
Detail Payroll for the Period of November 12,
2016 through November 25, 2016

(7) Resolution Authorizing Refund of Redemption
Monies to Outside Lienholders

(8) Resolution Authorizing Refund of Premium
Monies Collected at the Tax Sale

(9) Resolution Authorizing the Refund of an
Overbill from 2014 Taxes

(10) Resolution Authorizing the Refund of a Tax
Appeal issued by the Hudson County Board of

1 Taxation

2 (11) Resolution Cancelling First Quarter Taxes
3 for Block 203, Lot 28 (121 34th Street) and Block
4 203, Lot 36 (119 34th Street) were merged with
5 Block 203, Lot 10.01 (116 Peter Street)

6 (12) Resolution Cancelling First Quarter Taxes
7 for Properties that were Approved for Subdivision
8 Due to the Creation of New Condominium Buildings

9 (13) Resolution Authorizing the Person to Person
10 and Place to Place Transfer for Liquor License
11 # 0910-33-129-007 from Roglo, Inc. to Las Canas
12 Café, Inc., Located at 4546 Bergenline Avenue,
13 Union City

14 (14) Resolution Authorizing the City of Union
15 City to Participate in a Cooperate Pricing
16 Agreement

17 (15) Resolution Re-Appointing Member to the
18 Zoning Board

19 (16) Resolution Re-Appointing Member to the
20 Planning Board

21 (17) Resolution Approving Amendment to Contract
22 for Planning Consultants for Affordable Housing
23 Matters

24 (18) Resolution Authorizing the Placement of a
25 Lien on the Property Known as 209 44th Street,

1 Block 252, Lot 19, in the City of Union City for
2 Tenant Relocation Costs

3 (19) Resolution Authorizing the Placement of a
4 Lien on the Property Known as 806 13th Street,
5 Block 68, Lot 11, in the City of Union City for
6 Tenant Relocation Costs

7 (20) Resolution Authorizing the Placement of a
8 Lien on the Property Known as 520 New York
9 Avenue, Block 25, Lot 15, in the City of Union
10 City for Tenant Relocation Costs

11

12 DEPUTY CITY CLERK: We have 20 items on the
13 Consent Agenda tonight.

14 The first item is a Resolution Approving
15 the Payment of Claims.

16 The second is a Resolution Approving the
17 Payment of Concurring Claims.

18 The third is a Resolution Approving the
19 Payment of Escrow Refunds.

20 The fourth is a Resolution Approving the
21 City Payroll for the Period of December 24th, 2016
22 through January 6th, 2017.

23 The fifth is a Resolution Approving the
24 Library Payroll for the Period of December 24th,
25 2016 through January 6th, 2017.

1 The sixth is a Resolution Approving the
2 Public Safety Detail Payroll for the Period of
3 November 12th, 2016 through November 25th, 2016.

4 The seventh is a Resolution Authorizing the
5 Refund of Redemption Monies to Outside
6 Lienholders.

7 The eighth is a Resolution Authorizing the
8 Refund of Premium Monies Collected at the Tax
9 Sale.

10 The ninth is a Resolution Authorizing the
11 Refund of an Overbill from 2014 Taxes.

12 The tenth is a Resolution Authorizing the
13 Refund of a Tax Appeal issued by the Hudson
14 County Board of Taxation.

15 The eleventh is a Resolution Cancelling the
16 First Quarter Taxes for Block 203, Lot 28 and
17 Block 203, Lot 36, which were merged with Block
18 203, Lot 10.01.

19 The twelfth is a Resolution Cancelling
20 First Quarter Taxes for the Properties that were
21 Approved for Subdivision Due to the Creation of
22 New Condominium Buildings.

23 The thirteenth is a Resolution Authorizing
24 the Person to Person and Place to Place Transfer
25 for Liquor License Number 0910-33-129-007 from

1 Roglo, Incorporated to Las Canas Café,
2 Incorporated, Located at 4546 Bergenline Avenue,
3 Union City.

4 The fourteenth is a Resolution Authorizing
5 the City of Union City to Participate in a
6 Cooperate Price Agreement.

7 The fifteenth is a Resolution Re-Appointing
8 a Member to the Zoning Board.

9 The sixteenth is a Resolution Re-Appointing
10 a Member to the Planning Board.

11 The seventeenth is a Resolution Approving
12 Amendment to the Contract for Planning
13 Consultants for Affordable Housing Matters.

14 The eighteenth is a Resolution Authorizing
15 the Payment (sic) of a Lien on the Property Known
16 as 209 44th Street, Block 252, Lot 19, in the City
17 of Union City for Tenant Relocation Costs.

18 The nineteenth is a Resolution Authorizing
19 the Placement of a Lien on the Property Known as
20 806 13th Street, Block 68, Lot 11, in the City of
21 Union City for Tenant Relocation Costs.

22 The twentieth is a Resolution Authorizing
23 the Placement of a Lien on the Property Known as
24 520 New York Avenue, Block 25, Lot 15, in the
25 City of Union City for Tenant Relocation Costs.

1 Mayor, at this time would you like to open
2 for public comment on the Consent Agenda?

3 MAYOR STACK: Sure.

4 Good evening to all.

5 Anyone who wishes to contact -- make any
6 comment on the Consent Agenda, please step
7 forward, state your name and address for the
8 record.

9 Seeing none.

10 DEPUTY CITY CLERK: May I have a motion to
11 close public comment?

12 COMMISSIONER RIVAS: Motion.

13 MAYOR STACK: Motion.

14 DEPUTY CITY CLERK: Motion by Commissioner
15 Rivas.

16 Second by Mayor Stack.

17 Commissioner Rivas?

18 COMMISSIONER RIVAS: Yes.

19 DEPUTY CITY CLERK: Commissioner Valdivia?

20 COMMISSIONER VALDIVIA: Yes.

21 DEPUTY CITY CLERK: Commissioner
22 Martinetti?

23 COMMISSIONER MARTINETTI: Yes.

24 DEPUTY CITY CLERK: Mayor Stack?

25 MAYOR STACK: Yes.

1 DEPUTY CITY CLERK: May I have a motion to
2 approve all agenda items on the Consent Agenda?

3 COMMISSIONER VALDIVIA: Motion.

4 DEPUTY CITY CLERK: Motion by Commissioner
5 Valdivia.

6 COMMISSIONER RIVAS: Second.

7 DEPUTY CITY CLERK: Second by Commissioner
8 Rivas.

9 Commissioner Rivas?

10 COMMISSIONER RIVAS: Yes.

11 DEPUTY CITY CLERK: Commissioner Valdivia?

12 COMMISSIONER VALDIVIA: Yes.

13 DEPUTY CITY CLERK: Commissioner
14 Martinetti?

15 COMMISSIONER MARTINETTI: I'm abstaining on
16 number 1, any payments to Adolfo Lopez and Diaz;
17 and any payments pertaining to the Union City
18 Construction Code.

19 Aye on the rest.

20 I'm sorry; 18, 19 and 20. I'm abstaining
21 from 18, 19 and 20.

22 Aye on the rest.

23 DEPUTY CITY CLERK: Mayor Stack?

24 MAYOR STACK: Yes.

25

1 (Whereupon, the Board discussed and took
2 action on the following item:

3 **ORDINANCES FOR HEARING AND ADOPTION**

4 **CONSIDERATION:**

5 1. AN ORDINANCE AMENDING CHAPTER 397 OF THE
6 CODE OF THE CITY OF UNION CITY ENTITLED "TOWING"
7 (FORMS OF PAYMENT).)

8

9 DEPUTY CITY CLERK: We have one Ordinance
10 for Adoption this evening.

11 The Ordinance is Amending Chapter 397 of
12 the Code of Union City Entitled Towing, Forms of
13 Payment.

14 May I have a motion --

15 At this time would you like to take public
16 comment?

17 MAYOR STACK: Sure.

18 Anyone wishing to comment on this Ordinance
19 at this time, please step forward, state your
20 name and address for the record.

21 Just for everyone's knowledge, this
22 Ordinance concerns --

23 I'll turn it over to the Corporation
24 Counsel just so that she could explain exactly
25 what we're doing with this Ordinance.

1 -- it concerns towing in the City of Union
2 City, when a vehicle is towed.

3 MS. NOVA: This Ordinance requires towing
4 licensees to allow for cash or credit card
5 payment of the fees associated with the release
6 of a vehicle.

7 So this would require them to allow for
8 credit card payments as well as cash.

9 MAYOR STACK: Anyone wishing to comment on
10 this Ordinance at this time, please step forward.

11 This Ordinance is being done after we heard
12 several complaints from residents in the City of
13 Union City and we're trying to respond to their
14 needs.

15 DEPUTY CITY CLERK: May I have a motion to
16 close?

17 MAYOR STACK: Motion.

18 COMMISSIONER MARTINETTI: Second.

19 DEPUTY CITY CLERK: Motion by Mayor Stack.
20 Seconded by Commissioner Martinetti.

21 Commissioner Rivas?

22 COMMISSIONER RIVAS: Yes.

23 DEPUTY CITY CLERK: Commissioner Valdivia?

24 COMMISSIONER VALDIVIA: Yes.

25 DEPUTY CITY CLERK: Commissioner

1 Martinetti?

2 COMMISSIONER MARTINETTI: Yes.

3 DEPUTY CITY CLERK: Mayor Stack?

4 MAYOR STACK: Yes.

5 DEPUTY CITY CLERK: May I have a motion to
6 adopt?

7 COMMISSIONER MARTINETTI: Motion.

8 MAYOR STACK: Motion.

9 DEPUTY CITY CLERK: Motion made by
10 Commissioner Martinetti.

11 Second by Mayor Stack.

12 Commissioner Rivas?

13 COMMISSIONER RIVAS: Yes.

14 DEPUTY CITY CLERK: Commissioner Valdivia?

15 COMMISSIONER VALDIVIA: Yes.

16 DEPUTY CITY CLERK: Commissioner

17 Martinetti?

18 COMMISSIONER MARTINETTI: Yes.

19 DEPUTY CITY CLERK: Mayor Stack?

20 MAYOR STACK: Yes.

21

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

23

24 DEPUTY CITY CLERK: Mayor, at this time
25 would you like to open the meeting for public

1 comment on any item?

2 MAYOR STACK: Sure.

3 Just before we do, I would just like to
4 thank the residents that are here this evening.

5 The Commissioners and myself move a hundred
6 percent of our meetings throughout the community,
7 always in the evening hours at seven o'clock.

8 Everyone was notified from 41st to 49th
9 Street tonight, from Park Avenue over to Kennedy
10 Boulevard. I'd like to thank those residents who
11 came out this evening.

12 Anyone wishing to make public comment at
13 this time concerning any matter in the City of
14 Union City, please step forward, state your name
15 and address for the record.

16 Seeing none.

17 DEPUTY CITY CLERK: May I have a motion to
18 close public comment?

19 COMMISSIONER RIVAS: Motion.

20 DEPUTY CITY CLERK: Motion by Commissioner
21 Rivas.

22 COMMISSIONER VALDIVIA: Second.

23 DEPUTY CITY CLERK: Second by Commissioner
24 Valdivia.

25 Commissioner Rivas?

1 COMMISSIONER RIVAS: Yes.

2 DEPUTY CITY CLERK: Commissioner Valdivia?

3 COMMISSIONER VALDIVIA: Yes.

4 DEPUTY CITY CLERK: Commissioner

5 Martinetti?

6 COMMISSIONER MARTINETTI: Yes.

7 DEPUTY CITY CLERK: Mayor Stack?

8 MAYOR STACK: Yes.

9 DEPUTY CITY CLERK: Mayor, at this point we
10 have four Liquor License Disciplinary Hearings.

11 MAYOR STACK: Sure.

12 Mr. Farmer?

13 Mr. Farmer?

14 DEPUTY CITY CLERK: Mr. Farmer?

15 MAYOR STACK: Are you prepared or do you
16 need a few minutes?

17 MR. FARMER: Could I have a few minutes?

18 MAYOR STACK: Sure.

19 You know what we'll do? We'll hold the
20 Liquor License Hearings and we'll go over the
21 Fair -- the Fair -- the Housing Element and Fair
22 Share Plan.

23 Would that be okay, Mr. McNamara?

24 MR. McNAMARA: Yes, sir, if we can do that
25 in Closed Session. (Indiscernible) -- people

1 will wait.

2 MAYOR STACK: Okay.

3 MS. DILLON: I can't hear you there, Mr.
4 McNamara.

5 MAYOR STACK: If you could just step --

6 MR. McNAMARA: I apologize.

7 MS. DILLON: Can you come up -- approach?

8 MAYOR STACK: If you could just step
9 forward. If you could just step --

10 MR. McNAMARA: Oh, sure.

11 MS. DILLON: Right over here.

12 MAYOR STACK: Just to -- just to put your
13 appearance on the record.

14 MR. McNAMARA: Patrick McNamara, law firm
15 of Scarinci Hollenbeck. I'm here as Affordable
16 Housing Counsel on behalf of the City.

17 Mayor, we're more than happy to make a
18 presentation in Closed Session but I don't want
19 to inconvenience the residents if they're here --
20 we'll -- Mr. Gruel's here -- I mean Mr. Heyer's
21 here from the Heyer Gruel law (sic) firm as our
22 planners. We're more than willing to wait if
23 it's more convenient for you with the residents.

24 MAYOR STACK: Okay.

25 And none of this needs to go on the public

1 agenda tonight? That will be a later date?

2 MR. McNAMARA: Yes, it will be a later
3 date.

4 MAYOR STACK: Oh, I see.

5 MR. McNAMARA: I need to --

6 MAYOR STACK: I'm -- I got confused.

7 MR. McNAMARA: -- brief you because we have
8 an upcoming court hearing on the 30th.

9 MAYOR STACK: Oh, I understand. Okay. No
10 problem.

11 So this concerns, basically, litigation?

12 MR. McNAMARA: Yes, sir.

13 MAYOR STACK: I got it. Okay. All right.

14 So you know what we'll do, we'll -- we'll
15 -- we'll go into the meeting with Pat McNamara
16 after the liquor hearings this way we don't hold
17 up anybody with the liquor hearings or any
18 residents that are here on the liquor license
19 disciplinary action.

20 DEPUTY CITY CLERK: Do you want to adjourn
21 for a few minutes?

22 MAYOR STACK: Yeah, we'll -- we'll take
23 five minutes.

24 We're taking five minutes at this time,
25 everyone, until Mr. Farmer is ready to come up

1 and then we'll begin the Liquor License
2 Disciplinary Hearings.

3 For those not staying for those
4 hearings, -- you're more than welcome to do so --

5 COMMISSIONER RIVAS: I'll second it.

6 MAYOR STACK: -- but if you're not staying
7 thank you for coming out this evening and be safe
8 going home.

9 COMMISSIONER MARTINETTI: Motion.

10 DEPUTY CITY CLERK: You want to make a
11 motion to --

12 MAYOR STACK: Sure.

13 DEPUTY CITY CLERK: Motion by Mayor Stack.
14 Second by Commissioner Rivas.

15 MAYOR STACK: Let's just stay here though.

16 COMMISSIONER MARTINETTI: All in favor?

17 MAYOR STACK: Because we're gonna go right
18 back.

19 DEPUTY CITY CLERK: All in favor?

20 MAYOR STACK: Let's just stay here, all
21 right?

22 COMMISSIONER RIVAS: Aye.

23 MAYOR STACK: Yeah.

24 COMMISSIONER MARTINETTI: Aye.

25 DEPUTY CITY CLERK: Yes. Okay.

1
2 (Whereupon the Board recessed from 7:11
3 p.m. to 7:16 p.m.)

4
5 MAYOR STACK: Okay.

6 DEPUTY CITY CLERK: All right,
7 Commissioners, may I have a -- a motion to go
8 back into Open?

9 COMMISSIONER MARTINETTI: Motion.

10 COMMISSIONER RIVAS: Motion.

11 DEPUTY CITY CLERK: Motion made by
12 Commissioner Martinetti.

13 Second by Commissioner Rivas.

14 All in favor?

15

16 (Whereupon, there was a chorus of ayes.)

17

18 DEPUTY CITY CLERK: Okay, we're back in
19 Open.

20 (Whereupon, there was a pause in the
21 proceedings.)

22 DEPUTY CITY CLERK: We're back in Open.

23 MS. NOVA: Oh.

24 DEPUTY CITY CLERK: Back in Open Session.

25 Mr. Farmer, --

1 MAYOR STACK: How are you, Greg?

2 DEPUTY CITY CLERK: -- are you ready?

3 MR. FARMER: Yes.

4 DEPUTY CITY CLERK: Okay.

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

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1 **LIQUOR LICENSE DISCIPLINARY PROCEEDINGS:**

2

3 1. Lee Entertainment, LLC

4 T/A Fantasy Night Club

5 Location: 418 43rd Street

6 License No. 0910-33-072-007

7 2. Marvina, Inc.

8 T/A El Cobre Restaurant

9 Location: 4413-3315 (sic) Bergenline
10 Avenue

11 License No. 0910-33-208-010

12 3. Don Ramon, Inc.

13 T/A Don Ramon

14 Location: 4538 Bergenline Avenue

15 License No. 0910-33-047-004

16 4. Mayen Corp.

17 T/A El Trebol

18 Location: 3204 Bergenline Avenue

19 License No. 0910-33-190-008

20

21 MR. FARMER: Good evening, members of the
22 Board.

23 There are four cases on your calendar;
24 three of them are gonna go off.

25

* * *

1 **LEE ENTERTAINMENT, LLC**

2 **T/A FANTASY NIGHT CLUB**

3 **Location: 418 43rd Street**

4 **Liquor License No. 0910-33-072-007;**

5 **and**

6 **MARVINA, INC.**

7 **T/A EL COBRE RESTAURANT**

8 **Location: 4413-3315 (sic) Bergenline Avenue**

9 **Liquor License No. 0910-33-208-010**

10

11 MR. FARMER: Number one is Fantasy and
12 number two is El Cobre.

13 Both are represented by Mr. Diaz who is
14 away for -- Mr. Diaz who's away for a month or
15 so. He seems to go to Honduras a lot.

16 So, we can carry that.

17 The other one --

18 COMMISSIONER VALDIVIA: For a month?

19 MAYOR STACK: Which -- which one is this,
20 Mr. Farmer?

21 MR. FARMER: One and two.

22 COMMISSIONER MARTINETTI: One and two.

23 MAYOR STACK: One and two.

24 So we're -- we're gonna that 'til the next
25 meeting?

1 MR. FARMER: That's correct.

2 MAYOR STACK: Okay, I got it.

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1 **MAYEN CORP.**

2 **T/A EL TREBOL**

3 **Location: 3204 Bergenline Avenue**

4 **Liquor License No. 0910-33-190-008**

5

6 MR. FARMER: As well as number four, which
7 is El Trebol.

8 This is represented by Mr. Gonzalez. And
9 he called my office today, indicated to me that
10 he was involved in a substantial trial. And I
11 could tell by the sound of his voice that, you
12 know, he felt some pressure and concern and asked
13 whether or not we'd be good enough to carry it.
14 And I said there's no reason not to carry it. He
15 seemed to be under some stress to that.

16 Okay?

17 MAYOR STACK: Okay.

18

19

* * *

20

21

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24

25

1 **DON RAMON, INC.**

2 **T/A DON RAMON**

3 **Location: 4538 Bergenline Avenue**

4 **Liquor License No. 0910-33-047-004**

5

6 MR. FARMER: All right, now that brings us
7 to number 3, and that's Don Ramon.

8 Now Don Ramon is in here; the licensee is
9 in and represented by Mr. Paneque. This --

10 MAYOR STACK: You can go right ahead, Mr.
11 Farmer.

12 MR. FARMER: Okay.

13 This is a fight at the place.

14 MAYOR STACK: Okay.

15 MR. FARMER: All right?

16 When this was last on it was the time when
17 the police officers were attending a funeral a
18 couple of weeks ago --

19 MAYOR STACK: Yes.

20 MR. FARMER: -- and the matter got carried.

21 However, we had subpoenaed the victim and
22 he appeared and he was here. And we told him it
23 was adjourned; we told him it was adjourned until
24 tonight. And we've also subpoenaed him to be
25 here tonight. And we've also had Detective

1 Dunlay speak to him. Okay?

2 He now seems to have gone from being an
3 energetic witness to a recalcitrant witness.

4 So I would like to ask for one more
5 adjournment to really try to drag this guy in
6 here. Because he is under subpoena and he
7 doesn't show up but he's in -- we can,
8 theoretically, arrest him.

9 So, I would ask that it be carried for two
10 weeks.

11 MAYOR STACK: All right, we'll carry it and
12 then, if not, then we'll hear it without him.

13 MR. PANEQUE: Good -- good evening, Mr.
14 Mayor, ladies and gentlemen of the Board.

15 Tomas R. Paneque, attorney for the
16 respondent, Don Ramon Restaurant, Incorporated.

17 Your Honor, with respect to the application
18 made by Mr. Farmer to carry this matter, we were
19 here a couple of weeks ago. It was the evening
20 that they were having the wake for the officer
21 who passed and the matter was carried at that
22 time without any objection.

23 We were here 'til the end of the meeting
24 and the witness had not shown up -- at least he
25 had not shown up up to the time that we left,

1 | which is -- we walked out with everybody.

2 | He may have shown up after we left but we
3 | were here probably over an hour, because we -- we
4 | sat through the Commissioners Meeting and then
5 | there were some --

6 | MAYOR STACK: I remember.

7 | MR. PANEQUE: -- applications that were
8 | heard, including the transfer of the license that
9 | we just approved this evening.

10 | The fact of the matter is that in going
11 | through the report, the report indicates that
12 | there was some kind of altercation in the
13 | establishment where the witness, Javier Triana,
14 | received a laceration.

15 | However, the police officer who
16 | investigated the incident don't have any
17 | indication in the report that they found any
18 | evidence, other than the allegations made by Mr.
19 | Triana.

20 | And, in fact, they interviewed my client,
21 | Mr. Guido Miranda, who's the owner of the
22 | premises and the license, on the evening in
23 | question and Mr. Miranda, who had been working
24 | that evening on the first floor area of the
25 | restaurant, indicated, and it's noted in the

1 report, that there was no altercation that took
2 place.

3 The ice bucket, which allegedly had been
4 thrown, there was no ice on the floor, there was
5 no bucket to be found and, in fact, he wasn't
6 aware that any altercation took place and he was
7 there during the alleged time that the
8 altercation took place.

9 As the Board is aware, my client has
10 operated this business for 34 years. He runs a
11 clean, safe place. Everything that's stated in
12 these reports are basically allegations.

13 He's already had to pay me twice to be
14 here. It's not fair to have him come back again
15 on the assumption that they're gonna have this
16 recalcitrant, quote/unquote, witness show up.

17 I would, most respectfully, request that
18 this Board dismiss the complaint at this time.

19 MR. FARMER: If I could respond for a
20 moment?

21 The situation is that the gentleman did
22 appear, okay, and he did have substantial
23 injuries depicted in pictures that he had. He
24 was seriously injured.

25 Now the question becomes where was he

1 injured? He says he was injured there.

2 All right?

3 There's no question that the owner says I
4 work downstairs. Presumably he worked downstairs
5 because that's where more -- most of the activity
6 is. And obviously he would have seen somebody
7 get -- sustain the injuries that this man had
8 facially. All right?

9 So we know he was injured. Why would he
10 say he was injured there instead of there,
11 instead of there? What -- it doesn't make sense
12 that a person flags down a cop, bleeding from
13 substantial injuries, suddenly picks -- I don't
14 know, I -- I got injured there.

15 And now you have a situation is where would
16 he have gotten injured? That's the only place.

17 So all I'm saying is this. He was
18 seriously injured. That you won't have any
19 problem determining when you see the pictures.

20 He came last time; he didn't come this
21 time. I asked for one last time to see that he
22 comes. We've done everything possible but we got
23 to do it again because the guy did sustain a
24 serious injury and we don't want establishments
25 to be permitting that.

1 MAYOR STACK: And he came --

2 MR. FARMER: So, I'd ask the --

3 MR. PANEQUE: If I may just --

4 MAYOR STACK: He came to the last --

5 MR. PANEQUE: -- if I may just --

6 MR. FARMER: What?

7 MAYOR STACK: Did he come to the last
8 Commission Meeting?

9 MR. FARMER: Oh he was here at the last
10 Commission Meeting.

11 And he may have come late after it was
12 adjourned but he was here. There's no question
13 about that; I spoke to him and he had
14 photographs.

15 MAYOR STACK: Is this the gentleman?

16 (Whereupon, there was a pause in the
17 proceedings.)

18 MR. FARMER: Okay.

19 MAYOR STACK: Is that him?

20 Is that the gentleman?

21 MR. FARMER: Yes. So here we are.

22 MAYOR STACK: Okay.

23 COMMISSIONER MARTINETTI: Okay.

24 MAYOR STACK: All right, so then we'll try
25 it. Let's try it then.

1 MR. FARMER: Okay.

2 You have the pictures?

3 MR. TRIANA: Oh, yeah.

4 MR. FARMER: Okay.

5 MS. DILLON: Do you want him sworn?

6 MR. FARMER: Yeah, swear him in.

7 MS. DILLON: Sir, please raise your right

8 hand.

9 Do you affirm the testimony you're about to

10 give this Board is the whole truth?

11 MR. TRIANA: Yeah. Yes I do.

12 MS. DILLON: Step forward.

13 MAYOR STACK: Sir? Sir, do you need a

14 translator at all or no?

15 MR. TRIANA: No, no. I speak English.

16 MAYOR STACK: You're good?

17 Okay, I just want to make sure.

18 MS. DILLON: Okay, can you state your name

19 and spell it for me.

20 MR. TRIANA: Javier Triana.

21 MS. DILLON: Your last name?

22 MR. TRIANA: Triana.

23 MS. DILLON: Spell.

24 MR. TRIANA: T-R-I-A-N-A.

25 MS. DILLON: Javier?

1 MR. TRIANA: Yeah.

2 MS. DILLON: Thank you.

3 MR. FARMER: Okay.

4 Ready?

5 Mr. Triana, I'm gonna show you some
6 pictures -- or you can show me pictures of
7 injuries you sustained.

8 MR. TRIANA: Um-hum.

9 MR. FARMER: Are these the pictures?

10 MR. TRIANA: Yeah, both.

11 MR. FARMER: Okay.

12 You want to take a look?

13 When were they taken by the way?

14 MR. TRIANA: This is before --

15 (indiscernible). I'm taxi driver.

16 MR. FARMER: Okay.

17 MR. TRIANA: Before --

18 MS. DILLON: I can't hear you, sir.

19 MAYOR STACK: You just -- sir, --

20 MR. FARMER: You got to speak up.

21 MR. TRIANA: No, this is the picture that
22 had the -- the -- the incident before -- after
23 the --

24 MR. FARMER: Let's do it this way.

25 MR. TRIANA: Okay.

1 MR. FARMER: I'm gonna show you a picture
2 that's marked P-3. Is that a picture of you?

3 MR. TRIANA: Yeah.

4 MR. FARMER: And what does it show?

5 MR. TRIANA: This is you see the -- the
6 face and -- (indiscernible) --

7 MR. FARMER: Okay, shows --

8 MS. DILLON: Keep your voice up please.

9 MR. FARMER: It shows injuries --

10 MR. TRIANA: Yes.

11 MR. FARMER: -- to your face?

12 MR. TRIANA: Yes.

13 MR. FARMER: All right.

14 When was that taken?

15 MR. TRIANA: The officers he take it in the
16 nightclub. The name -- Don Ramon.

17 MR. FARMER: Okay.

18 Wait. When were they taken? Not where.

19 MR. TRIANA: Oh, the day the -- the
20 incident.

21 MR. FARMER: Okay.

22 Now I'm gonna show you what's been marked
23 P-2.

24 MR. TRIANA: Yeah.

25 MR. FARMER: Is that a picture of the

1 injury you sustained?

2 MR. TRIANA: Yeah, the same day.

3 MR. FARMER: Okay.

4 And this picture is right after the injury?

5 MR. TRIANA: After the injury.

6 MR. FARMER: Right.

7 And this picture is a picture of how you
8 look?

9 MR. TRIANA: Yeah, before injured.

10 MR. FARMER: Okay.

11 MR. TRIANA: In the same day.

12 MS. DILLON: What is that marked, Mr.
13 Farmer?

14 MR. FARMER: P-1.

15 MR. TRIANA: P-1.

16 MS. DILLON: You want those marked --

17 MR. FARMER: Yes.

18 MS. DILLON: -- for the record?

19 MR. FARMER: Yes.

20

21

22 (Whereupon, photograph of Mr. Triana was
23 received and marked as Exhibit P-1.)

24

25 (Whereupon, photograph showing facial

1 injuries to Mr. Triana was received and marked as
2 Exhibit P-2.)

3

4 (Whereupon, photograph showing facial
5 injuries to Mr. Triana was received and marked as
6 Exhibit P-3.)

7

8 MR. PANEQUE: May I see those, Greg?

9 MR. FARMER: Yeah.

10 MR. TRIANA: The same picture -- the same,
11 the same.

12 This is the -- I am taxi driver, so --
13 (indiscernible) --

14 MR. FARMER: Okay.

15 MR. TRIANA: -- (indiscernible).

16 MR. FARMER: All right, now, tell us the
17 facts surrounding you receiving these injuries.

18 You understand my question?

19 MR. TRIANA: Yeah.

20 MR. FARMER: Okay.

21 Tell me what happened. Or tell us. And
22 keep your voice up.

23 MR. TRIANA: Okay, that night I went to the
24 place to pick up a passenger.

25 MR. FARMER: When you say the place, Don

1 Ramon?

2 MR. TRIANA: Yeah. The place Don Ramon
3 Night Club.

4 MR. FARMER: And you are -- you're a taxi
5 cab driver?

6 MR. TRIANA: I am taxi cab driver.

7 MR. FARMER: Okay.

8 Continue.

9 MR. TRIANA: I always go to pick up the
10 passenger to that place. That night I went to
11 pick up my ex-girlfriend around 1 a.m.

12 When I arrive the place, because the place
13 is in the basement, they -- they don't have the
14 signal to their phone. I call the customer, so
15 they don't answer the phone. So I had to go
16 inside to tell the cab is outside to waiting for
17 the passenger.

18 So I arrive 1 a.m. to tell Miss Hernandez
19 -- Vicky Hernandez --

20 MR. FARMER: That's who you were picking
21 up?

22 MR. TRIANA: -- taxi cab --

23 Yeah.

24 -- the taxi's outside to pick up her.

25 When --

1 MR. FARMER: And you're driving the taxi?

2 MR. TRIANA: I am driving the taxi. Yeah.

3 MR. FARMER: And she called a taxi to pick
4 her up.

5 MR. TRIANA: Yeah.

6 MR. FARMER: Okay.

7 MR. TRIANA: She is my ex-girlfriend. She
8 know me. So, always I pick her up.

9 MR. FARMER: Okay.

10 MR. TRIANA: So when I arrived at the place
11 she was drink and dancing and one table. So the
12 'nother guys with drinks and -- in another table,
13 so behind her. So I tell her the taxi is
14 outside, I'm waiting for you, so let's go.
15 Always I did.

16 So, the 'nother guy, I don't know is he's
17 ex-boyfriend or friend, whatever, but she said
18 she don't know that guy. She -- he was drink --
19 he was drunk. So he hit me in my face. I said
20 why you hit me, I come only to pick her. And he
21 assault me and he take the bucket -- the Corona
22 and he throw it in my face and he cut my --

23 MR. FARMER: Okay.

24 So what he threw in your face was a -- was
25 it a bucket of beer?

1 MR. TRIANA: Yeah, bucket of beer.

2 MR. FARMER: Okay.

3 MR. TRIANA: So -- full, it was maybe five
4 beer inside the --

5 MR. FARMER: Okay.

6 MR. TRIANA: -- the bucket.

7 MR. FARMER: Now as this is going on is
8 anybody from the bar breaking it up?

9 MR. TRIANA: Yeah. The owner of the bar he
10 know me because he -- he is the owner of the
11 place. And the security they know me, too,
12 because they are my friend. So they know always
13 I go to that place to pick up the passenger. I
14 never have problem; I never fight with anybody.

15 So they know the guy and they see the guy
16 hit me and they don't do nothing but take the guy
17 and they let him go and they hold me in the door
18 because they see I bleeding a lot because the
19 bucket they cut my -- my eyes.

20 MR. FARMER: Okay.

21 MR. TRIANA: I tell him this guy hit me,
22 why you don't do nothing. He said no, let him go
23 because he drunk, he don't know what he doing.
24 So they -- they don't do nothing to --
25 (indiscernible) -- guys.

1 I call the cop -- the police to coming
2 after he leave.

3 MR. FARMER: Okay.

4 They -- they give you any kind of
5 assistance, like I don't know, --

6 MR. TRIANA: No.

7 MR. FARMER: -- taking ice cubes and
8 putting it on your face?

9 MR. TRIANA: Nothing. Nothing.

10 MR. FARMER: But there's no question about
11 it that you were hit in the bar and that the
12 owner came over to you and spoke to you as this
13 incident was going on or shortly afterwards?

14 MR. TRIANA: No.

15 MR. FARMER: You understand the question?

16 MR. TRIANA: Yeah, I understand the
17 question.

18 I spoke to the owner. I said you know me,
19 I always come to pick up the passenger. She said
20 -- he -- he told me, yeah, I know you. You're a
21 good guy, you never fight. So, why he try to hit
22 -- fight with you. He said I don't know he was
23 drunk. So he -- he start to hit me. I don't
24 touch the guy. I don't fight with this guy
25 because I don't know that guy.

1 MR. FARMER: But the owner was aware of
2 this?

3 MR. TRIANA: The owner was in the basement.
4 He saw the -- the incident.

5 MR. FARMER: He saw the incident.

6 MR. TRIANA: Yes.

7 MR. FARMER: Okay.

8 MR. TRIANA: He saw -- and they had camera
9 but he don't -- he said the camera was off and
10 that's not true.

11 MR. FARMER: Okay.

12 MR. TRIANA: Because I know the place.
13 Always I go to pick up the passenger and they
14 have camera.

15 MR. FARMER: Okay.

16 I don't have further questions.

17 MR. PANEQUE: Thank you.

18 Mr. Triana, --

19 MR. TRIANA: Yeah.

20 MR. PANEQUE: -- this incident occurred on
21 what date?

22 MR. TRIANA: I don't remember exactly the
23 date because this is last year, it's a long time.
24 So I think that was in September or October. I
25 don't remember exactly the date.

1 MR. PANEQUE: You remember what day of the
2 week it was?

3 MR. TRIANA: It was Friday.

4 MR. PANEQUE: It was a Friday?

5 MR. TRIANA: Friday or Saturday; I was
6 working. I work on the weekend taxi driver
7 nighttime.

8 MR. PANEQUE: Is this Friday going into
9 Saturday morning?

10 MR. TRIANA: Yeah, I think so, that's 1
11 a.m. --

12 MR. PANEQUE: Okay.

13 MR. TRIANA: -- before they close.

14 MR. PANEQUE: And at the time you were
15 working for the taxi company?

16 MR. TRIANA: I work for Anthony's Taxi
17 Company, North Bergen, 6 p.m. to 6 a.m.

18 MR. PANEQUE: Okay.

19 Did this call came in through the taxi
20 company mainline or it was a personal direct call
21 to you?

22 MR. TRIANA: No, this is personal because
23 the -- the customer, I told you, she -- she was
24 my ex-girlfriend.

25 So sometimes the customer call my phone

1 | direct, so I go to pick up the -- the passenger
2 | to that place always.

3 | MR. PANEQUE: All right, so the -- the
4 | customer is someone that you know, --

5 | MR. TRIANA: Yeah.

6 | MR. PANEQUE: -- Miss Hernandez?

7 | MR. TRIANA: Yeah.

8 | MR. PANEQUE: And you stated that -- you
9 | referred to her as an ex-girlfriend?

10 | MR. TRIANA: Yeah, just in the past --

11 | MR. PANEQUE: Okay.

12 | MR. TRIANA: -- I always pick her --

13 | MR. PANEQUE: Ex-girlfriend in -- in the
14 | sense of a friend or some kind of relationship
15 | with this lady?

16 | MR. TRIANA: No, I no have any relation,
17 | no, I don't have --

18 | MS. DILLON: I'm sorry, sir, you have to
19 | speak up please.

20 | MR. TRIANA: I don't have nothing with her
21 | now. So she was in past my ex-girlfriend, so now
22 | it's my customer.

23 | MR. PANEQUE: So in the past you had a
24 | relationship with this lady?

25 | MR. TRIANA: Oh, yes, before.

1 MR. PANEQUE: Okay.

2 MR. TRIANA: Long time --

3 MR. PANEQUE: Now when you arrived at Don
4 Ramon that evening, what time was it?

5 MR. TRIANA: It was between 1 and 1:30.
6 Before they close. Because always I go to pick
7 her before they close.

8 MR. PANEQUE: Okay.

9 And did you enter Don Ramon's restaurant?

10 MR. TRIANA: Yes.

11 MR. PANEQUE: And how did -- by where did
12 you enter?

13 MR. TRIANA: In the basement.

14 They had the -- the night club in the
15 basement.

16 MR. PANEQUE: Okay.

17 So which entrance do you use to go into the
18 basement?

19 MR. TRIANA: They have two entrance. They
20 have one in the front, Bergenline; and another
21 one in -- in the back in 45.

22 MR. PANEQUE: Okay.

23 And you went to -- through what the back
24 entrance?

25 MR. TRIANA: In the back on the left, the

1 door.

2 MR. PANEQUE: Okay.

3 Now as you enter did you see the -- the
4 fare that you were supposed to pick up, Miss
5 Hernandez?

6 MR. TRIANA: Oh, yeah, because it's in the
7 basement. And say they have two sections. They
8 have in front where they had the bar and they had
9 some table in the back. So she was in the table
10 in the back to the left side.

11 So, I -- I see the security -- the security
12 is my friends so I go to pick up her. They let
13 me go because I'm not drink, so they -- they know
14 I'm go to pick her and come back to work.

15 So he let me go inside because that day
16 they -- they charge I think \$25.00 for the people
17 go inside. So because they know me, I'm taxi
18 driver, they -- they don't charge me nothing.

19 So I go inside to pick her on the basement
20 in the left side.

21 MR. PANEQUE: Okay.

22 And did you approach Miss Hernandez?

23 MR. TRIANA: Yeah.

24 MR. PANEQUE: And were there words spoken?

25 MR. TRIANA: No, no, no. I tell her only

1 to -- because the music went too loud. No, I can
2 tell her the taxi's outside so I come to pick for
3 you.

4 MR. PANEQUE: Okay.

5 MR. TRIANA: So, that why -- only I pick
6 her up.

7 MR. PANEQUE: So, just because you went to
8 pick her up, it's your testimony that this
9 unknown person attacked you?

10 MR. TRIANA: Yeah. They -- the guys were
11 drinking behind the table that Miss Hernandez. I
12 -- I ask her, do you know these guys. She said,
13 no, I don't know. These guys were drink before
14 she arrive the place. He was drunk.

15 MR. PANEQUE: This guy was drunk?

16 MR. TRIANA: Yeah.

17 MR. PANEQUE: And without any kind of
18 notice or any kind of indication, you stated that
19 he first hit you across your face?

20 MR. TRIANA: No. I -- only to -- I tell
21 him why you start to insult me. Why you start to
22 -- to -- I don't know you. And he don't know
23 Miss Hernandez.

24 I ask Miss Hernandez, you know this guy,
25 she said no.

1 MR. PANEQUE: All right.

2 MR. TRIANA: He was in the bar.

3 MR. PANEQUE: You had not mentioned in your
4 testimony that you asked this guy why he started
5 insulting you?

6 MR. TRIANA: Yeah, because he start to
7 insult me --

8 MR. PANEQUE: Okay.

9 MR. TRIANA: -- and he start to hit me.

10 He punched my face, --

11 MR. PANEQUE: He -- he insulted you?

12 MR. TRIANA: Yeah, he insult me.

13 MR. PANEQUE: Did you respond?

14 MR. TRIANA: No. I tell him why you start
15 insult me. I don't come to this place to problem
16 with you; I come only to pick her.

17 MR. PANEQUE: Okay.

18 MR. TRIANA: Yeah. So he has -- was -- he
19 insult me -- insult me, so --

20 MR. PANEQUE: Insult --

21 MR. TRIANA: -- that's when I said I no --
22 I no fight with these guys. He hit my face. So
23 I went why you hit me? So, he -- mother fucker
24 he said -- he -- he throw the bucket with --

25 MR. PANEQUE: Okay.

1 MR. TRIANA: -- beer in my -- in my face.

2 MR. PANEQUE: So, you approach Mr.

3 Hernandez. You tell her --

4 MS. DILLON: Just one step closer please.

5 MR. PANEQUE: -- that --

6 MS. DILLON: Thank you.

7 MR. PANEQUE: -- you're there to pick her
8 up. This gentleman starts insulting you --

9 MR. TRIANA: Yeah.

10 MR. PANEQUE: -- and you ask him why you're
11 insulting me?

12 MR. TRIANA: Yeah.

13 MR. PANEQUE: And that led to him hitting
14 you?

15 MR. TRIANA: Yup.

16 MR. PANEQUE: Okay.

17 Was there anything else that transpired
18 between you and him --

19 MR. TRIANA: No. Because I don't know that
20 guy. I'm never see that guy in my life.

21 MR. PANEQUE: So, there -- there were no
22 words on your behalf which would have caused him
23 to hit you?

24 MR. TRIANA: No.

25 MR. PANEQUE: He just started hitting you

1 for no reason?

2 MR. TRIANA: Maybe because I went to pick
3 up Miss Hernandez. But I ask her; she says she
4 don't know that guy, too.

5 MR. PANEQUE: Okay.

6 So there was --

7 MR. TRIANA: He was there --

8 MR. PANEQUE: -- some discussion between
9 you and this person?

10 MR. TRIANA: Never had a problem with that
11 guy. I never see that guy in my life. No. I --
12 only to see that night.

13 MR. PANEQUE: All right.

14 So now you get hit. How did he hit you?
15 Punch? Slap?

16 MR. TRIANA: When he start to --

17 MR. PANEQUE: The first hit.

18 MR. TRIANA: Yeah. The first he hit my
19 face.

20 MR. PANEQUE: He slapped your face?

21 MR. TRIANA: Yes.

22 MR. PANEQUE: What part of the face?

23 MR. TRIANA: On this side.

24 MR. PANEQUE: Okay.

25 MR. TRIANA: Over here.

1 MR. PANEQUE: What did you do at that
2 point?

3 MR. TRIANA: When he start to fight with me
4 I say I don't want to fight because I never
5 fight.

6 MR. PANEQUE: Okay.

7 MR. TRIANA: I said why you insult me, why
8 you fight with me? So I put my face out. You
9 know? So when I put my face out -- Miss
10 Hernandez put it in the middle -- he take the
11 bucket, the beer and he throw it in my face.
12 That's the reason he caught it my -- in my face
13 the beer.

14 MR. PANEQUE: Okay.

15 There were no insults? You did not insult
16 him?

17 MR. TRIANA: No.

18 MR. PANEQUE: You did not --

19 MR. TRIANA: You can ask Miss Hernandez,
20 she was in -- in the --

21 MR. PANEQUE: Well, Miss Hernandez is not
22 here, so I'm asking you.

23 MR. TRIANA: No, Mister, no. I said why
24 you -- only you insult me?

25 MR. PANEQUE: Okay.

1 MR. TRIANA: Why? Say I no come to fight
2 with you, I don't come to look for problem.

3 MR. PANEQUE: Now this bucket of ice that
4 he threw at you hit you on your head?

5 MR. TRIANA: Yeah. Here.

6 MR. PANEQUE: There.

7 And that's the picture that you see there
8 with the laceration?

9 MR. TRIANA: Yeah, that's the picture.
10 Yeah.

11 MR. PANEQUE: Right.

12 After it hit you in your head where did
13 this bucket land?

14 MR. TRIANA: On the floor.

15 MR. PANEQUE: Did you see it on the floor?

16 MR. TRIANA: No, because you know when I
17 received the impact, you know, I lost my control.

18 MR. PANEQUE: Did you fall?

19 MR. TRIANA: No. Only I lost the control.
20 Was bleeding --

21 MR. PANEQUE: You stated that as you walked
22 in the security guard knew you.

23 MR. TRIANA: Yeah.

24 MR. PANEQUE: Did the security guard
25 intervene at that point?

1 MR. TRIANA: They don't intervene. And
2 they --

3 MR. PANEQUE: They did not?

4 MR. TRIANA: If you are bleeding and --

5 MR. PANEQUE: Okay, no, just answer the
6 question.

7 Did they intervene at that point?

8 MR. TRIANA: No, they leave -- the guys
9 they -- they leaving to the guys leaving the
10 place and they hold me because they see I
11 bleeding.

12 MR. PANEQUE: Okay.

13 So the guy had -- that through the bucket
14 at you left?

15 MR. TRIANA: Yeah.

16 MR. PANEQUE: You saw him leaving?

17 MR. TRIANA: Yeah I saw -- when the
18 security saw and the owner, too, because the
19 owner was in the basement when the incident --

20 MR. PANEQUE: Um-hum.

21 MR. TRIANA: -- (indiscernible) --

22 MR. PANEQUE: Okay, we'll get to the owner
23 in a moment.

24 So this person who threw the bucket at you
25 left?

1 MR. TRIANA: Yup.

2 MR. PANEQUE: And the security was holding
3 you up?

4 MR. TRIANA: Yup. Because they saw me I'm
5 bleeding.

6 MR. PANEQUE: And they did not offer any
7 kind of aid?

8 MR. TRIANA: No.

9 MR. PANEQUE: No towel? No --

10 MR. TRIANA: No.

11 MR. PANEQUE: -- ice? Nothing?

12 MR. TRIANA: No. Only I went to the
13 bathroom. I tell the guy to -- that work in the
14 bar, can you give me some ice. Because I'm
15 bleeding a lot so I put a lot of ice.

16 MR. PANEQUE: So you did get ice?

17 MR. TRIANA: Yeah, but because I -- I ask
18 him give me some ice.

19 MR. PANEQUE: All right.

20 MR. TRIANA: They -- they don't give me no
21 -- no attention. They don't helping me.

22 MR. PANEQUE: All right. But your
23 previously testimony was they -- they didn't do
24 anything for you.

25 MR. TRIANA: Because I --

1 MR. PANEQUE: Okay.

2 MR. TRIANA: -- by myself.

3 MR. PANEQUE: All right.

4 Now, after you placed this ice on yourself.

5 Okay. What did you do after that? You left the
6 place?

7 MR. TRIANA: No, I wait for the -- the
8 police arrive the place.

9 MR. PANEQUE: Who called the police?

10 MR. TRIANA: I call the police.

11 MR. PANEQUE: You called the police.

12 Now you stated that the owner was there?

13 MR. TRIANA: Yup.

14 MR. PANEQUE: And you referred to the owner
15 as her?

16 MR. TRIANA: Yeah, he saw me.

17 MR. PANEQUE: Was it a woman or a man?

18 MR. TRIANA: The man.

19 MR. PANEQUE: You know who -- what's his --
20 what's his name?

21 MR. TRIANA: Yeah I know the -- the -- the
22 owner of the place because he know me for a long
23 time.

24 MR. PANEQUE: He knows you for a long time?

25 MR. TRIANA: Yeah. Yeah.

1 MR. PANEQUE: Okay. If -- if you see the
2 owner would you recognize him?

3 MR. TRIANA: Sure.

4 MR. PANEQUE: Okay.

5 Can you describe him?

6 MR. TRIANA: Yeah.

7 MR. PANEQUE: Describe him.

8 MR. TRIANA: He's tall.

9 MR. PANEQUE: Tall?

10 MR. TRIANA: Yeah.

11 MR. PANEQUE: About my size?

12 MR. TRIANA: Um -- small. His wife's a
13 little bit fat.

14 MR. PANEQUE: A little bit fat?

15 MR. TRIANA: Yeah.

16 MR. PANEQUE: Wife?

17 You've seen him several times?

18 MR. TRIANA: Yeah. Yeah, I go to the
19 place, yeah.

20 MR. PANEQUE: Okay, so you've been there
21 several times and you've seen him several times?

22 Do you know his name?

23 MR. TRIANA: The name not too much but I
24 know the face.

25 MR. PANEQUE: You know the face?

1 MR. TRIANA: (Indiscernible) -- yeah.

2 MR. PANEQUE: And you say that he was
3 there?

4 MR. TRIANA: Yup.

5 MR. PANEQUE: Okay.

6 And he did not render any aid to you?

7 MR. TRIANA: No.

8 MR. PANEQUE: Okay.

9 What color's his hair?

10 MR. TRIANA: I think it's color black.

11 MR. PANEQUE: Black hair?

12 MR. TRIANA: Um-hum.

13 MR. PANEQUE: Okay.

14 Fair skin? Dark?

15 MR. TRIANA: Dark.

16 MR. PANEQUE: Dark?

17 MR. TRIANA: Yeah.

18 MR. PANEQUE: So he's a dark-skinned, --

19 MR. TRIANA: He's not skinny.

20 MR. PANEQUE: -- black hair, --

21 MR. TRIANA: He's like a -- a little --
22 little fat.

23 MR. PANEQUE: A little fat?

24 MR. TRIANA: Yeah.

25 MR. PANEQUE: Not skinny. I said dark-

1 skin.

2 And is he American? Hispanic?

3 MR. TRIANA: I think he's Hispanic.

4 (Indiscernible).

5 MR. PANEQUE: He's Hispanic.

6 You've spoken to him in the past?

7 MR. TRIANA: Yeah, because I went to the
8 place before, you know, taking the passenger. He
9 always see me. And I always went to pick up --

10 MR. PANEQUE: All right, so --

11 MR. TRIANA: -- the place.

12 MR. PANEQUE: -- how many times in the past
13 have you seen -- have you been there before?

14 MR. TRIANA: A lot of time.

15 MR. PANEQUE: A lot of time.

16 What's a lot?

17 MR. TRIANA: More than 20.

18 MR. PANEQUE: Twenty times.

19 MR. TRIANA: Yeah. Because I'd be going
20 with the passenger.

21 MS. DILLON: Keep your voice up, sir.

22 MR. PANEQUE: And --

23 MR. TRIANA: Okay.

24 MR. PANEQUE: And did the owner, when you
25 go there in previous occasions, was the owner

1 | there?

2 | MR. TRIANA: When I went to pick up --

3 | MR. PANEQUE: Yeah. In the prior times --
4 | previous times.

5 | MR. TRIANA: Before the incident?

6 | MR. PANEQUE: Yes.

7 | MR. TRIANA: I see him few time.

8 | MR. PANEQUE: You see him a few times.

9 | So you --

10 | MR. TRIANA: And --

11 | MR. PANEQUE: -- you recognize this guy?

12 | MR. TRIANA: -- I -- yeah, I recognize and
13 | I spoke with him; one time I give it to him my
14 | business card, too, because I tell her I am taxi
15 | driver, --

16 | MR. PANEQUE: Um-hum.

17 | MR. TRIANA: -- I am technician of
18 | refrigeration, too. So I give him my business
19 | cards and say in the future he need the service
20 | for the -- fix the freezer in the place. So I
21 | spoke with him one time, a long time.

22 | MR. PANEQUE: Okay.

23 | So you would -- if you saw him you would
24 | know who he is?

25 | MR. TRIANA: Um-hum.

1 MR. PANEQUE: Okay.

2 And on that evening did you get to speak to
3 him after the accident?

4 MR. TRIANA: After the incident?

5 MR. PANEQUE: Um-hum.

6 MR. TRIANA: Yeah, I -- I saw him.

7 MR. PANEQUE: Okay.

8 MR. TRIANA: I speak with him; why you
9 don't -- you do nothing to -- to -- the security
10 detention that guy.

11 MR. PANEQUE: Yeah.

12 MR. TRIANA: Because the incident happen
13 inside the nightclub.

14 MR. PANEQUE: Okay.

15 MR. TRIANA: So why the -- the security did
16 -- they let it go the -- the guys.

17 MR. PANEQUE: Okay. And --

18 MR. TRIANA: Why --

19 MR. PANEQUE: -- what did he say to you?

20 MR. TRIANA: -- why did they hold me in the
21 room?

22 He said, oh, I can do nothing because he
23 was drunk.

24 MR. PANEQUE: Okay.

25 MR. TRIANA: So, he don't know what he

1 doing. (Indiscernible) -- only they told me.

2 MR. PANEQUE: All right.

3 MR. TRIANA: And that guy was a lot drunk.

4 MR. PANEQUE: He said to you I can't do
5 anything because he's drunk.

6 MR. TRIANA: Yeah. That's what I remember
7 --

8 MR. PANEQUE: That was the explanation --

9 MR. TRIANA: Yeah.

10 MR. PANEQUE: -- that the owner gave you?

11 MR. TRIANA: Yup.

12 MR. PANEQUE: Okay.

13 You -- you're sure about this?

14 MR. TRIANA: Yes, sir, because I spoke with
15 him and I saw -- I saw that he was close to the
16 -- the incident place.

17 MR. PANEQUE: Okay.

18 If you were to see the owner again would
19 you ask him why he didn't do anything?

20 MR. TRIANA: Of course, this is my
21 question. I don't see the guys after the
22 incident. I don't went -- come back to the
23 place.

24 MR. PANEQUE: Okay.

25 MR. TRIANA: I don't want any trouble, but

1 I said so, I want to ask you why he don't do --
2 or why he don't give the order to security
3 detention the guys until the police come and they
4 arrest.

5 MR. PANEQUE: All right. So, you would
6 want to ask the owner --

7 MR. TRIANA: Yeah, I want to ask him why.

8 MR. PANEQUE: Okay.

9 Just to see what he would say?

10 MR. TRIANA: Yup.

11 MR. PANEQUE: Because that night he didn't
12 do anything for you?

13 MR. TRIANA: Nobody do nothing. The
14 security didn't -- they only see I bleeding and
15 they say, oh, hold it because we -- we don't want
16 you go out and he start to fight with you and
17 happen more incident.

18 MR. PANEQUE: Okay.

19 MR. TRIANA: But they see me I'm bleeding
20 and they don't do nothing to -- to help.

21 MR. PANEQUE: Okay.

22 Now, the police came.

23 MR. TRIANA: Yeah.

24 MR. PANEQUE: And you gave a report to the
25 police.

1 MR. TRIANA: Yup. (Indiscernible) --
2 officer.

3 MR. PANEQUE: The officer that's there.

4 MR. TRIANA: Yeah.

5 MR. PANEQUE: That's the officer?

6 MR. TRIANA: I think --

7 MR. PANEQUE: You're pointing to him.
8 Right? You remember him?

9 MR. TRIANA: Yeah. Yeah, I remember he --
10 officer took the photo in --

11 MR. PANEQUE: Okay.

12 MR. TRIANA: -- my face --

13 MR. PANEQUE: How many times have you seen
14 this officer before that day?

15 MR. TRIANA: I never seen before then.

16 MR. PANEQUE: Never seen him?

17 MR. TRIANA: No.

18 MR. PANEQUE: Okay, but you know it's him
19 tonight?

20 MR. TRIANA: I -- yeah I think because he
21 was -- I think was no police -- regular officer.

22 MR. PANEQUE: Detective.

23 MR. TRIANA: Detective.

24 MR. PANEQUE: Okay.

25 MR. TRIANA: And he take photo on his phone

1 and he take photo in my phone, too.

2 MR. PANEQUE: Okay.

3 Now, did you wait for the police inside the
4 establishment?

5 MR. TRIANA: Yes.

6 MR. PANEQUE: You never left?

7 MR. TRIANA: No. I wait -- I waited for
8 the police.

9 MR. PANEQUE: Did the police meet you
10 inside the establishment?

11 MR. TRIANA: Yeah.

12 MR. PANEQUE: They did?

13 And it was this officer -- I'm pointing to
14 the gentleman here, the Sergeant -- Detective,
15 that you -- you pointed out before.

16 Correct?

17 MR. TRIANA: Yeah.

18 MR. PANEQUE: All right.

19 When the officer responded to the scene did
20 they find the ice bucket on the floor or any ice
21 or anything like that?

22 MR. TRIANA: No because they pick up
23 everything. Saw police was outside so he take me
24 the picture outside. (Indiscernible) --

25 MR. PANEQUE: The police officer took the

1 picture --

2 MR. TRIANA: (Indiscernible) -- it was
3 outside.

4 MR. PANEQUE: But you just said that he
5 went inside.

6 MR. TRIANA: I don't see that he went
7 inside. I said I waited for the police inside
8 the place.

9 MR. PANEQUE: Yes. And did the officer --

10 MR. TRIANA: The officer coming --

11 MR. PANEQUE: -- go inside also?

12 MR. TRIANA: No, I don't see that he go
13 inside.

14 MR. PANEQUE: No.

15 MR. TRIANA: So after the police coming,
16 they let me go outside so they see me bleeding, I
17 -- I see the Detective and he take the photo on
18 his phone and he take the photo on my phone, too.
19 So I don't take that picture; he took the
20 picture.

21 MR. PANEQUE: And did you see anybody in
22 the establishment picking up the -- the bucket of
23 ice, the ice, any beer?

24 MR. TRIANA: I want to tell you I don't see
25 it because I was bleeding. So, --

1 (indiscernible) --

2 MR. PANEQUE: Okay.

3 MR. TRIANA: -- my control.

4 MR. PANEQUE: So you can't tell us if it
5 was picked up by the time the police got there?

6 MR. TRIANA: No, I can't tell you. That's
7 -- I don't want to lie. I can't tell that.

8 MR. PANEQUE: Okay.

9 And the gentleman who threw the bucket of
10 ice, he was gone by that time?

11 MR. TRIANA: No, he left. He left.

12 MR. PANEQUE: He left.

13 MR. TRIANA: Yeah.

14 MR. PANEQUE: Okay, --

15 MR. TRIANA: Before.

16 MR. PANEQUE: -- so the officers never got
17 to talk to him?

18 MR. TRIANA: No, they no catch.

19 MR. PANEQUE: Okay.

20 Now these photographs that have been marked
21 as P-3 and P-2, with the lacerations on your
22 face, those pictures were taken that evening?

23 MR. TRIANA: Yeah.

24 MR. PANEQUE: Okay. Now, --

25 MR. TRIANA: Outside the -- the -- the

1 place.

2 MR. PANEQUE: Okay.

3 MR. TRIANA: And that's -- that night
4 before. You see this --

5 MR. PANEQUE: Yes.

6 MR. TRIANA: -- one say night before.

7 MR. PANEQUE: On these photographs I do
8 note the laceration but I don't see any blood
9 dripping down your face or anything like that.

10 Do you have any pictures that were taken
11 with either blood on --

12 MR. TRIANA: Bleeding?

13 MR. PANEQUE: Yes.

14 MR. TRIANA: No because I put a lot of
15 towel and ice so the --

16 MR. PANEQUE: Okay.

17 MR. TRIANA: -- bleeding stop. So when
18 they take the pic-- so no more bleeding.

19 MR. PANEQUE: Okay.

20 MR. TRIANA: But you see --

21 MR. PANEQUE: When -- when you were
22 bleeding, did the blood go into your shirt?

23 MR. TRIANA: Sure.

24 MR. PANEQUE: All right, you have pictures
25 of the shirt with the blood on it?

1 MR. TRIANA: No.

2 MR. PANEQUE: No.

3 MR. TRIANA: I said, no, that's true. I
4 don't have it. I have only that photo. Because
5 that's the Detective he take two photo.

6 MR. PANEQUE: Okay.

7 So, I see a little bit of the collar of the
8 shirt on both pictures. Okay, there's no
9 indication of blood in that collar.

10 Did the blood go down your face onto your
11 shirt?

12 MR. TRIANA: Yeah. No.

13 MR. PANEQUE: Not up here?

14 MR. TRIANA: Yeah.

15 MR. PANEQUE: So there was nothing on your
16 collar?

17 MR. TRIANA: No. You see the tee shirt is
18 the same --

19 MR. PANEQUE: Um-hum.

20 MR. TRIANA: -- it's no different.

21 MR. PANEQUE: Now I'm looking at the
22 pictures and I know that there's no blood
23 anywhere in that collar even though you have the
24 laceration right above what appears to be the
25 right side of your -- your right eye?

1 MR. TRIANA: Yes.

2 MR. PANEQUE: Okay.

3 Was your blood (sic) full of blood? Was
4 your shirt full of blood?

5 MR. TRIANA: Yeah my shirt was bleeding.

6 MR. PANEQUE: But nothing in the collar?

7 MR. TRIANA: Nothing.

8 MR. PANEQUE: Or this top area?

9 MR. TRIANA: No. Only here.

10 MR. PANEQUE: Now did you have to go to the
11 hospital?

12 MR. TRIANA: No my wife she -- she -- she's
13 nurse and she fixed my -- my face.

14 MR. PANEQUE: Okay.

15 So you received medical attention at home?

16 MR. TRIANA: Medical attention on there.

17 MR. PANEQUE: Okay.

18 The person who threw the bucket at you, you
19 had never seen this person previously?

20 MR. TRIANA: No.

21 MR. PANEQUE: Okay.

22 And it's your testimony that there weren't
23 fighting words between you and him at that time?

24 It didn't escalate into a fight between you
25 and him?

1 MR. TRIANA: I tell you, I never see that
2 guy before, after the incident. So he was wrong.

3 MR. PANEQUE: Okay.

4 MR. TRIANA: Yeah. I went to pick up Miss
5 Hernandez so he start to insult me and he start
6 to hit me.

7 MR. PANEQUE: All right.

8 MR. TRIANA: I don't -- I don't fight with
9 the guy. You can ask the owner because he was in
10 the front and he saw me and he know me, I never
11 fight in that place.

12 MR. PANEQUE: Okay.

13 We'll ask the owner --

14 MR. TRIANA: Okay.

15 MR. PANEQUE: -- when we get a chance.

16 MR. TRIANA: And you can ask the security
17 too.

18 MR. PANEQUE: And the security also.

19 MR. TRIANA: Because I went to that place
20 before.

21 MR. PANEQUE: All right.

22 I have no further questions.

23 MR. FARMER: I just have two questions.

24 MR. TRIANA: Okay.

25 MR. FARMER: Did you meet the police

1 outside? Did you flag them down?

2 MR. TRIANA: Outside.

3 MR. FARMER: Outside?

4 MR. TRIANA: Outside.

5 MR. FARMER: That's where you met the
6 police?

7 MR. TRIANA: Yeah. And the police was
8 outside and Detective was outside. I tell the
9 police what happened.

10 MR. FARMER: All right. But you were
11 outside?

12 MR. TRIANA: Yeah, I went -- I waited for
13 the police inside the Don Ramon --

14 MR. FARMER: Right. But when they --

15 MR. TRIANA: -- because I couldn't --

16 MR. FARMER: Okay.

17 MR. TRIANA: When they coming, I go out --
18 they let me go out --

19 MR. FARMER: Okay.

20 MR. TRIANA: -- because --

21 MR. FARMER: So you --

22 MR. TRIANA: -- (indiscernible).

23 MR. FARMER: -- first met them outside.

24 Correct?

25 MR. TRIANA: Yeah.

1 MR. FARMER: All right.

2 And the first time they saw your injuries
3 was when you were outside?

4 MR. TRIANA: Yeah.

5 MR. FARMER: All right.

6 Now you talked a lot about the owner. All
7 right?

8 MR. TRIANA: Yeah.

9 MR. FARMER: What makes you think that the
10 person that you were dealing with and who you
11 thought was the owner was the owner?

12 Did he say I'm the owner?

13 MR. TRIANA: No because I -- I -- I tell
14 you one more time.

15 MR. FARMER: Um-hum.

16 MR. TRIANA: I know the place because I
17 went before to pick --

18 MR. FARMER: Um-hum.

19 MR. TRIANA: -- up people.

20 MR. FARMER: Um-hum.

21 MR. TRIANA: I know the security; they know
22 me.

23 MR. FARMER: Um-hum.

24 MR. TRIANA: And the owner he know me, too.

25 MR. FARMER: So when you --

1 MR. TRIANA: He saw me before at the --

2 MR. FARMER: Okay. You -- when you say the
3 owner, you mean the guy that's in charge
4 downstairs all the time?

5 MR. TRIANA: No all the time.

6 MR. FARMER: Okay.

7 MR. TRIANA: No all the time.

8 MR. FARMER: But he --

9 MR. TRIANA: Sometime he there.

10 MR. FARMER: All right. But he's the --

11 MR. TRIANA: The guys had the -- the --
12 that night I know that he's the owner because --

13 MR. FARMER: He's in charge?

14 MR. TRIANA: -- (indiscernible). Yeah.
15 Because he is giving the order to the security.

16 MR. FARMER: Okay.

17 MR. TRIANA: Okay.

18 MR. FARMER: So you thought he was the
19 owner because he seemed to be in charge and he
20 could give orders?

21 MR. TRIANA: Yeah.

22 MR. FARMER: All right.

23 I have no further questions.

24 MR. TRIANA: Okay.

25 MR. FARMER: Okay, thanks.

1 You can sit down.

2 MR. TRIANA: Okay.

3 This is my photo --

4 MR. FARMER: Yeah, --

5 MR. TRIANA: -- give them --

6 MR. FARMER: No, I'll give them back to
7 you.

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

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

12 OFFICER PENA: Yes, ma'am, I do.

13 MS. DILLON: Could you please state your
14 name and spell it for the record?

15 OFFICER PENA: Officer Michael Pena. First
16 name, M-I-C-H-A-E-L. Last name, Pena, P-E-N-A.

17 MS. DILLON: And, Officer, I'm just going
18 to ask you to keep your voice up.

19 OFFICER PENA: Sure.

20 MS. DILLON: It's a difficult room.
21 Thank you.

22 OFFICER PENA: You're welcome.

23 MR. FARMER: Now, Officer Pena, --

24 OFFICER PENA: Yes, sir.

25 MR. FARMER: -- you're a member of the

1 Union City Police Department?

2 OFFICER PENA: Yes, sir.

3 MR. FARMER: How long you been a member of
4 the Union City Police Department?

5 OFFICER PENA: About a year and a half sir.

6 MR. FARMER: Okay.

7 On September 4th of 2016, did you come
8 across Mr. Triana who just testified?

9 OFFICER PENA: Yes, sir.

10 MR. FARMER: Could you tell us the
11 circumstances upon which you and Mr. Triana came
12 together.

13 OFFICER PENA: Yes, of course. We were
14 patrolling that night. We were flagged down on
15 Bergenline Avenue in front of Don Ramon by the
16 individual. Stated that he was assaulted inside
17 the establishment.

18 MR. FARMER: And how'd he look?

19 OFFICER PENA: He did have a laceration
20 above the -- I believe the right eye, sir.

21 MR. FARMER: Bleeding?

22 OFFICER PENA: Yes.

23 MR. FARMER: Okay.

24 What else did you do?

25 OFFICER PENA: I -- I further asked what

1 | happened. He stated that he was picking up a
2 | fare. That the woman that he was picking up was
3 | inside the establishment. He went inside to see
4 | if she can come out and he was met by another
5 | male that began to exchange words and, I guess,
6 | threw a bucket at him. That's what he stated.
7 | Empty beer bucket.

8 | MR. FARMER: Okay.

9 | And after you took that statement did you
10 | do anything? Did you inventory? Or was that it?

11 | OFFICER PENA: No, I -- I --

12 | Excuse me.

13 | -- I requested for an additional unit. A
14 | Detective did arrive on scene -- Sergeant Dunlay.
15 | And he refused -- the individual refused medical
16 | attention.

17 | MR. FARMER: Okay.

18 | And did Detective Diaz come down, too?

19 | OFFICER PENA: Yes.

20 | MR. FARMER: Okay.

21 | Is that all of your involvement in this
22 | matter --

23 | OFFICER PENA: Yes, sir, it is.

24 | MR. FARMER: -- to the best of your
25 | recollection?

1 OFFICER PENA: Yes, sir.

2 MR. FARMER: Okay. I have no further
3 questions.

4 MR. PANEQUE: Officer Pena, --

5 OFFICER PENA: Yes, sir.

6 MR. PANEQUE: -- you indicated that when
7 you got to the scene you met the victim, Mr.
8 Triana and that he was bleeding at the time?

9 OFFICER PENA: Yes he had a laceration
10 above the eye. It was a little bit of blood.
11 Not -- not much.

12 MR. PANEQUE: Not much?

13 Do you recall whether there was blood on
14 his shirt?

15 OFFICER PENA: No, sir, I do not remember.

16 MR. PANEQUE: You do not.

17 I -- I show you what's been marked as
18 Exhibits P-2 and P-3 for --

19 OFFICER PENA: Um-hum.

20 MR. PANEQUE: -- identification.

21 I don't have --

22 Oh, yes. All right.

23 Is -- is that how you recollect Mr. Triana
24 as looking when you first saw him?

25 OFFICER PENA: Yes, sir, it is.

1 MR. PANEQUE: Okay.

2 Is there any blood shown on those
3 photographs as protruding from that laceration?

4 OFFICER PENA: Just right there by the
5 right eye. That's it; I don't see any --

6 MR. PANEQUE: Okay, you're referring to
7 this one dot of blood right there?

8 OFFICER PENA: Yes.

9 MR. PANEQUE: Okay.

10 But nothing coming down or anything like
11 that, right?

12 OFFICER PENA: No.

13 MR. PANEQUE: Now in this photograph of Mr.
14 Triana, -- actually on both, we see a bit of his
15 collar on his shirt.

16 Correct?

17 You see any blood there?

18 OFFICER PENA: No, I do not.

19 MR. PANEQUE: Okay.

20 Thank you, Officer, I have no further
21 questions.

22 MR. FARMER: Thanks.

23 OFFICER PENA: Okay.

24 MR. FARMER: Officer Diaz?

25 MS. DILLON: Officer, please raise your

1 right hand.

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

4 DETECTIVE DIAZ: Yes.

5 MS. DILLON: Could you please state your
6 name and spell it for the record.

7 DETECTIVE DIAZ: It's Detective Diaz, D-I-
8 A-Z; ID 362.

9 MS. DILLON: Thank you.

10 MR. FARMER: Detective Diaz, how long you
11 been a member of the Union City Police
12 Department?

13 DETECTIVE DIAZ: Nineteen years.

14 MR. FARMER: And did it come -- did there
15 come a time in September of 2016 that you became
16 involved with the investigation and the incident
17 that occurred on -- occurred at Don Ramon?

18 DETECTIVE DIAZ: Yes.

19 MR. FARMER: All right.

20 Where the gentleman who just testified was
21 injured?

22 DETECTIVE DIAZ: Yes.

23 MR. FARMER: Okay.

24 Now did you at that time ask Don Ramon if
25 he had cameras in the establishment?

1 DETECTIVE DIAZ: Yes.

2 MR. FARMER: Okay.

3 And did you say you wanted to see them?

4 DETECTIVE DIAZ: I did.

5 MR. FARMER: Okay.

6 When you asked to see them what happened?

7 DETECTIVE DIAZ: We discovered that the
8 cameras are only operational on the first floor,
9 not the basement of the establishment --

10 MR. FARMER: Okay.

11 DETECTIVE DIAZ: -- where the incident
12 occurred.

13 MR. FARMER: All right.

14 And let me ask you a question about it.
15 Are you familiar with the -- the place?

16 DETECTIVE DIAZ: Somewhat, yes.

17 MR. FARMER: Would you say that the
18 activity down there is more down into the
19 basement part or upstairs are the same or
20 whatever?

21 DETECTIVE DIAZ: Oh that I couldn't say.

22 MR. FARMER: Okay. Okay.

23 Any -- was there an explanation as to why
24 their video wasn't working?

25 DETECTIVE DIAZ: No, not that I recall.

1 MR. FARMER: Okay.

2 Anything else you could think of?

3 DETECTIVE DIAZ: No.

4 MR. FARMER: Okay, I have no further
5 questions.

6 MR. PANEQUE: Detective, good evening.

7 DETECTIVE DIAZ: Good evening.

8 MR. PANEQUE: When you responded to the
9 scene did you see Mr. Triana there when you --

10 DETECTIVE DIAZ: I did not.

11 MR. PANEQUE: -- arrived?

12 DETECTIVE DIAZ: I arrived -- he had
13 departed.

14 MR. PANEQUE: He had left.

15 DETECTIVE DIAZ: Um-hum.

16 MR. PANEQUE: Okay.

17 Did you have an opport-- well you did
18 testify that you went inside the establishment
19 and spoke to the owner about the cameras?

20 DETECTIVE DIAZ: Yes.

21 MR. PANEQUE: Were there any other patrons
22 in the establishment at the time?

23 DETECTIVE DIAZ: Not at the time of my
24 arrival, no.

25 MR. PANEQUE: No? Everybody had left by

1 | that time?

2 | DETECTIVE DIAZ: Yes.

3 | MR. PANEQUE: Did you see any signs of an
4 | altercation having taken place; ice or
5 | anything --

6 | DETECTIVE DIAZ: No.

7 | MR. PANEQUE: -- thrown about the floor?

8 | DETECTIVE DIAZ: Not at the time that I
9 | arrived.

10 | MR. PANEQUE: Okay. Did you look for any
11 | such evidence?

12 | DETECTIVE DIAZ: No.

13 | MR. PANEQUE: No?

14 | Okay.

15 | So your investigation was basically to
16 | determine whether there was a camera --

17 | DETECTIVE DIAZ: Right. I went down --

18 | MR. PANEQUE: -- and to speak to the
19 | owner --

20 | DETECTIVE DIAZ: Yes.

21 | MR. PANEQUE: -- as to what had happened?

22 | DETECTIVE DIAZ: Yes.

23 | MR. PANEQUE: Okay.

24 | DETECTIVE DIAZ: But everything seemed in
25 | order when I got there.

1 MR. PANEQUE: Everything was in order?

2 DETECTIVE DIAZ: Yes.

3 MR. PANEQUE: Now you spoke to the owner,
4 Mr. Miranda, right?

5 DETECTIVE DIAZ: Um-hum.

6 MR. PANEQUE: Okay.

7 DETECTIVE DIAZ: Um-hum.

8 MS. DILLON: Can you answer verbally, --

9 DETECTIVE DIAZ: Yes.

10 MS. DILLON: -- Detective.

11 Thank you.

12 MR. PANEQUE: Now did Mr. Miranda --

13 Strike that.

14 What was Mr. Miranda's response to you when
15 you brought this incident to his attention?

16 DETECTIVE DIAZ: He stated he was there all
17 evening, steps away from the alleged incident and
18 he witnessed nothing.

19 MR. PANEQUE: Okay.

20 So, from the very moment that you first
21 interviewed him his testimony to you was I didn't
22 see anything --

23 DETECTIVE DIAZ: Right.

24 MR. PANEQUE: -- and I was here.

25 DETECTIVE DIAZ: Right.

1 MR. PANEQUE: Okay.

2 Was there anything during your
3 investigation that would lead you to believe that
4 Mr. Miranda was not being candid or truthful?

5 DETECTIVE DIAZ: No.

6 MR. PANEQUE: Thank you, Detective.

7 MR. FARMER: Okay.

8 Just so we're clear, he said nothing
9 happened and I was in a situa-- in a position
10 that if something happened I would have seen it
11 because I'm down there?

12 DETECTIVE DIAZ: Right. Right.

13 MR. FARMER: Okay.

14 Thank you.

15 DETECTIVE DIAZ: Okay.

16 MR. FARMER: Detective Dunlay?

17 MS. DILLON: Please raise your right hand.

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

20 SERGEANT DUNLAY: I do.

21 MS. DILLON: Name for the record please.

22 SERGEANT DUNLAY: Sergeant David A. Dunlay,
23 D-U-N-L-A-Y.

24 MS. DILLON: Thank you.

25 MR. FARMER: Now, Detective, how long you

1 | been with the Union City Police Department?

2 | SERGEANT DUNLAY: Going on 11 years.

3 | MR. FARMER: Okay.

4 | And have you been involved with the
5 | policing of taverns in the City of Union City?

6 | SERGEANT DUNLAY: Yes, sir.

7 | MR. FARMER: And would it be fair to say
8 | that you're the supervising night officer with
9 | respect to the taverns in Union City?

10 | SERGEANT DUNLAY: Yes, sir.

11 | MR. FARMER: Okay.

12 | So you investigate incidents that occur?

13 | SERGEANT DUNLAY: Yes, sir.

14 | MR. FARMER: All right.

15 | I'm gonna direct your attention to Don
16 | Ramon. Familiar with the incident?

17 | SERGEANT DUNLAY: Yes, sir.

18 | MR. FARMER: Share with us your
19 | investigation -- what you did and what you
20 | learned from it and your conclusions as the night
21 | commander in Union City dealing with bars for the
22 | last few years.

23 | Understand the question?

24 | SERGEANT DUNLAY: Yes, sir.

25 | MR. FARMER: Okay.

1 SERGEANT DUNLAY: We -- we --

2 MR. FARMER: Keep your voice up.

3 SERGEANT DUNLAY: We responded to Don Ramon
4 after one of the officers called us over
5 indicating that there was an injured party and,
6 in fact, that injured party was making claims
7 that he was assaulted inside the bar,
8 specifically Don Ramon.

9 I responded there, along with Detective
10 Diaz. I was the first one to arrive on scene. I
11 saw Mr. Triana. He did have a laceration. I
12 spoke to him. And -- and while speaking to him I
13 noticed one thing which was kind of offset in --
14 if I used that word correctly -- was that Mr.
15 Triana was not intoxicated in any sense of the
16 way.

17 Normally in my interactions with bar --
18 bars and fights and, you know, there's a victim
19 and there -- and there's an actor; usually it
20 involves everybody's intoxicated.

21 In this situation that was not the case.
22 Mr. Triana was completely lucid and he kept
23 making that indication; I'm not drunk, I'm not
24 drunk, I haven't -- I haven't drank anything, I
25 was assaulted inside Don Ramon.

1 And I'm like well explain that to me, how
2 did -- how did you get assaulted inside Don
3 Ramon.

4 He stated he went downstairs to pick up a
5 fare from a party he transports on a regular.
6 While downstairs he approached her; she was
7 talking to some-- to some man. That man got
8 jealous, they exchanged words, and then at one
9 point the male threw a bucket of beer -- a beer
10 bucket -- a bucket of ice I would guess at him
11 causing the laceration.

12 Now while I inspected the laceration it did
13 seem cylindrical in a sense that it could be
14 something, you know, which would jibe with Mr.
15 Triana's story. So I photographed his injuries;
16 I asked him if he needed medical attention, at
17 which point he stated no.

18 And then I was like honestly you have a
19 pretty deep cut, you should probably seek medical
20 attention. He didn't really believe me. I said
21 let me see your phone, I took his photos of his
22 injuries so he could have it and I showed him.
23 These are the photos that he's presenting to you
24 today.

25 From there Detective Diaz arrived. We --

1 we attempted to further identify the actor, which
2 went to no avail as Mr. Triana does not know who
3 this person is.

4 We've attempted to make contact with the
5 other party, Miss Hernandez, which we have;
6 however, she doesn't -- she's not forthcoming in
7 the sense that she wants to give a formal
8 statement to the Police Department at this time.
9 But Detective Diaz was able to speak to her on
10 the phone. She doesn't wish to cooperate with
11 the investigation.

12 We spoke to Mr. -- the owner of Don Ramon,
13 Mr. Miranda, who indicated same -- the same thing
14 that night that, in fact, he doesn't -- he didn't
15 see anything happen, he doesn't know of any
16 incident that did occur.

17 What I did find, like I stated, was odd was
18 that Mr. Triana was insistent that it happened
19 inside the basement at Don Ramon. And from my
20 experience with him, he didn't seem -- he wasn't
21 intoxicated, doesn't seem like he has any
22 personal vendetta or anything to gain by making
23 the claim that he was assaulted in Don Ramon, so
24 I have -- I have to go and believe his story and
25 continue --

1 MR. FARMER: The --

2 SERGEANT DUNLAY: -- with the
3 investigation.

4 MR. FARMER: What about the surveillance?
5 Was there surveillance?

6 No, no, --

7 SERGEANT DUNLAY: Well Detective Diaz did
8 conduct -- she did the follow-up on the
9 surveillance and she indicated to me that there
10 was no -- there was surveillance cameras,
11 however, the ones in the basement where Mr.
12 Miranda -- where, I'm sorry, where Mr. Triana
13 alleged this incident occurred were not
14 recording.

15 MR. FARMER: Okay.

16 I don't have any further questions.

17 MR. PANEQUE: Good evening, Detective.

18 SERGEANT DUNLAY: Good evening, sir.

19 MS. DILLON: One step closer, Mr. Paneque.
20 Thank you.

21 MR. PANEQUE: Detective Dunlay, you've
22 indicated that you've been on the force for 11
23 years.

24 SERGEANT DUNLAY: Yes, sir.

25 MR. PANEQUE: Okay.

1 Is it a fair assumption that you've seen a
2 number of individuals with lacerations and cuts
3 and so forth?

4 SERGEANT DUNLAY: Yes, sir.

5 MR. PANEQUE: And is it a fair assumption
6 to say that usually these individuals with these
7 type of lacerations have a substantial amount of
8 bleeding that --

9 SERGEANT DUNLAY: It would depend.

10 MR. PANEQUE: Okay. Well, look at P-2 and
11 P-3.

12 You remember taking those photographs?

13 SERGEANT DUNLAY: Yes, sir.

14 MR. PANEQUE: All right.

15 By the time you took these photographs do
16 you know or can you tell this Board how much time
17 had lapsed from the time the incident was alleged
18 to have occurred to the time the photographs was
19 taken?

20 SERGEANT DUNLAY: I could tell you it's a
21 fresh cut. There's no actual blood drying up in
22 the general area --

23 MR. PANEQUE: Um-hum.

24 SERGEANT DUNLAY: -- or clotting or
25 anything to that effect.

1 You know, was it actively bleeding? No, it
2 wasn't.

3 MR. PANEQUE: Okay.

4 SERGEANT DUNLAY: It was an open
5 laceration, which I saw. Like you -- like you
6 see in the photo, just by the cylindrical aspect
7 of the cut, I would -- I -- I believed his -- his
8 version of events.

9 MR. PANEQUE: Okay.

10 Now, I do want to call your attention to
11 the section of the photographs where his collar
12 is depicted.

13 Do you have a recollection whether there
14 was any blood on his collar or his shirt?

15 SERGEANT DUNLAY: I don't recall anything
16 that would actually draw my attention to it.
17 Could there have been droplets on the shirt from
18 the dripping, it's possible.

19 MR. PANEQUE: Okay.

20 SERGEANT DUNLAY: But not enough where I
21 would be -- where I would make it a point to
22 actually photograph it.

23 MR. PANEQUE: Okay.

24 Now let me see if I -- you referred to
25 droplets or driplets, would this type of

1 laceration be one where you have droplets or
2 driplets or --

3 SERGEANT DUNLAY: You could have droplets.
4 You could have drop -- drops of blood from this
5 type of laceration. It depends how deep. And
6 one thing that I -- and from my -- we're talking
7 about my knowledge and experience with
8 lacerations, I would tell you being that he
9 wasn't intoxicated, probably played a strong role
10 in why he wasn't bleeding a lot.

11 MR. PANEQUE: All right.

12 But it's fair to say that in -- in the
13 shirt that he's wearing in the picture there's no
14 indication of any blood on that shirt and you
15 don't have any --

16 SERGEANT DUNLAY: Correct.

17 MR. PANEQUE: -- recollection of it?

18 SERGEANT DUNLAY: That's correct, sir.

19 MR. PANEQUE: Okay.

20 As a Detective, is that something that you
21 would focus on to see if there was evidence of --
22 with blood in the shirt, with respect to
23 proximity as to when the event took place?

24 SERGEANT DUNLAY: No, it would depend on
25 the actual -- the claim as to, you know, -- he

1 | says he -- he was stabbed in -- on the head, I
2 | would have to see if it jibes with his injuries.

3 | MR. PANEQUE: Um-hum.

4 | SERGEANT DUNLAY: You know he's stating, as
5 | you could see here, he's stating he was -- a
6 | large ice bucket was thrown at him. By looking
7 | at the photo and by looking at him that day I
8 | could tell by the cylindrical aspect, he had some
9 | bruising around his face, everything would kind
10 | of match with his version of events.

11 | MR. PANEQUE: Um-hum.

12 | All right but your testimony is you don't
13 | recall there was blood on the shirt --

14 | SERGEANT DUNLAY: No, sir.

15 | MR. PANEQUE: -- or anything like that?

16 | And you didn't make a point of that
17 | anywhere in your report or anything to that
18 | effect?

19 | SERGEANT DUNLAY: No, sir.

20 | MR. PANEQUE: Now did there come a time
21 | when you actually went inside the establishment?

22 | SERGEANT DUNLAY: I did. I briefly went
23 | inside and we conducted the actual paperwork on
24 | the -- I believe it's the first floor.

25 | MR. PANEQUE: Okay.

1 By the time you were able to go inside the
2 establishment, were there any other patrons left?

3 SERGEANT DUNLAY: No, no, there was --

4 MR. PANEQUE: Was there anybody outside for
5 you to be able to interview as to what had
6 happened?

7 SERGEANT DUNLAY: No, it was bar closing.
8 Nobody was really, you know, --

9 MR. PANEQUE: Um-hum.

10 SERGEANT DUNLAY: -- stopped by or saying,
11 oh, he -- they witnessed this or they witnessed
12 that. No.

13 MR. PANEQUE: Were you able to speak to Mr.
14 Miranda, --

15 SERGEANT DUNLAY: Briefly, yes.

16 MR. PANEQUE: -- the owner?

17 SERGEANT DUNLAY: Yes, sir.

18 MR. PANEQUE: And was he cooperative?

19 SERGEANT DUNLAY: Absolutely, yes.

20 MR. PANEQUE: Okay.

21 And, if you recall, what was his general
22 impression of the allegations that were being --

23 SERGEANT DUNLAY: He was indicating that it
24 didn't occur. He was -- he was insistent that he
25 did not see it occur and nobody on his staff

1 notified him that it -- that -- that that
2 occurred. And -- but that was his -- his focus
3 from the get-go; he was stating it didn't happen
4 inside Don Ramon.

5 MR. PANEQUE: All right, so he -- he has
6 never waived from that position that --

7 SERGEANT DUNLAY: That is correct.

8 MR. PANEQUE: -- nothing happened?

9 SERGEANT DUNLAY: That's correct.

10 MR. PANEQUE: Okay.

11 Since the incident on September 4th and
12 during the course of ongoing investigation, have
13 you been able to come up with any witnesses that
14 can substantiate what Mr. Triana is alleging?

15 SERGEANT DUNLAY: Well, Detective Diaz
16 spoke to the actual female, --

17 MR. PANEQUE: What --

18 SERGEANT DUNLAY: -- Miss Hernandez, on
19 the --

20 MR. PANEQUE: Okay, what --

21 SERGEANT DUNLAY: -- phone today.

22 MR. PANEQUE: -- that would be --

23 We don't want to hear any hearsay testimony
24 at this point but is she here --

25 SERGEANT DUNLAY: That's part of our

1 investigation.

2 MR. PANEQUE: Yeah but is she here today to
3 testify?

4 SERGEANT DUNLAY: No but you asked me if we
5 picked up anything and yes.

6 MR. PANEQUE: Okay.

7 Other than Miss Hernandez, who was the
8 alleged fare, anybody else?

9 SERGEANT DUNLAY: No, sir.

10 MR. PANEQUE: Okay.

11 Did you -- were there any other employees
12 at the establishment at the time that you
13 conducted your investigation?

14 SERGEANT DUNLAY: No at that point it was
15 pretty much closing, so --

16 MR. PANEQUE: Okay.

17 SERGEANT DUNLAY: -- everybody was gone for
18 the day.

19 MR. PANEQUE: Did you have an occasion to
20 go back either the next day or thereafter and try
21 to interview any other employees --

22 SERGEANT DUNLAY: I don't -- I don't
23 believe we even went that far.

24 MR. PANEQUE: No? Okay.

25 And why was that?

1 SERGEANT DUNLAY: He said one thing. His
2 story kind of made sense. Our main focus was
3 pretty much more trying to identify the actor of
4 an aggravated assault than to try to, you know,
5 jam up, if you want to say it for a better word,
6 the -- the bar.

7 So we tried investigating the angles of
8 trying to find and identify this guy.
9 Unfortunately they just led to no avail.

10 MR. PANEQUE: Okay.

11 So, your -- the focus of the investigation
12 was to find the assailant?

13 SERGEANT DUNLAY: Correct.

14 MR. PANEQUE: Okay, not so much on
15 pinning --

16 SERGEANT DUNLAY: Administrative charges on
17 Don --

18 MR. PANEQUE: -- administrative charges on
19 the establishment.

20 Okay.

21 Is it plausible that Mr. Triana could have
22 been injured somewhere else?

23 SERGEANT DUNLAY: It's -- any -- any --
24 listen anything's possible but, like I said, his
25 testimony seemed truthful to me that day.

1 MR. PANEQUE: Okay.

2 SERGEANT DUNLAY: And because -- because --
3 and I -- and I hold it to a higher level, because
4 of the fact that he wasn't intoxicated and he's
5 making these claims that these happened -- these
6 things occurred inside the bar.

7 MR. PANEQUE: Okay.

8 Have you investigated whether there may be
9 any ulterior motives as to why Mr. Triana is
10 making these allegations that it took place
11 there?

12 SERGEANT DUNLAY: We looked. We tried.
13 You -- you always -- you always see if there's
14 some type of personal vendetta. And to -- to my
15 knowledge and to Detective Diaz's knowledge, I
16 believe there is no -- nothing that we've come up
17 with or that has surfaced.

18 MR. PANEQUE: Thank you, Detective.

19 No further questions.

20 MR. FARMER: Okay.

21 Thank you.

22 SERGEANT DUNLAY: Thank you.

23 MR. FARMER: That's our case.

24 MR. PANEQUE: I'm going to call one
25 witness, Mayor, ladies and gentlemen of the

1 Board, Mr. Miranda.

2 MS. DILLON: Mr. Miranda, please raise your
3 right hand.

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

6 MR. MIRANDA: I do.

7 MS. DILLON: Would you please state your
8 name and spell for the record.

9 MR. MIRANDA: Guido Miranda. G-U-I-D-O.

10 MS. DILLON: G-- I'm sorry. G--

11 MR. MIRANDA: G-U-I-D-O.

12 MS. DILLON: Right.

13 MR. MIRANDA: Miranda. M-I-R-A-N-D-A.

14 MS. DILLON: Thank you, sir.

15 I'm just going to ask you to keep your
16 voice up -- high ceilings.

17 MR. MIRANDA: Okay.

18 MS. DILLON: Okay?

19 MR. PANEQUE: Mr. Miranda, what is your
20 relationship to Don Ramon restaurant?

21 MR. MIRANDA: I'm the owner of Don Ramon
22 restaurant.

23 MR. PANEQUE: Okay.

24 And, in fact, you're the liquor license
25 holder?

1 MR. MIRANDA: Yes, sir.

2 MR. PANEQUE: Okay.

3 I call your attention to the night of
4 September 4th, 2016. Okay. Were you working in
5 the establishment that evening?

6 MR. MIRANDA: Yes.

7 MR. PANEQUE: Okay.

8 And did there come a time when the officer
9 who have previously testified come to see you?

10 MR. MIRANDA: Yes.

11 MR. PANEQUE: Okay.

12 And prior to the officers coming to talk to
13 you, were you aware of anything that had
14 transpired in your establishment?

15 MR. MIRANDA: Not aware until that night I
16 was -- I walked outside and I saw Mr. --

17 What's his name?

18 MR. PANEQUE: Triana?

19 MR. MIRANDA: -- Triana saying that he was
20 -- he got hit and he was trying to dial the
21 police. And then we -- he saw police and he
22 flagged them down. That's the first time, the
23 only -- the only time I seen it.

24 MR. PANEQUE: Okay, so the first time you
25 saw Mr. Triana was when you walked outside and

1 saw him outside?

2 MR. MIRANDA: Yes.

3 MR. PANEQUE: Now that night you were
4 working?

5 MR. MIRANDA: Yes.

6 MR. PANEQUE: And where exactly were you
7 working that evening?

8 MR. MIRANDA: I was working downstairs. I
9 usually work downstairs.

10 MR. PANEQUE: Okay.

11 Now you -- you heard the testimony of Mr.
12 Triana as to how he alleges that he entered the
13 establishment. He said he came in through a side
14 door.

15 Is there such a side door?

16 MR. MIRANDA: Yes.

17 MR. PANEQUE: Okay.

18 Now from where you -- where do you normally
19 work in the downstairs area?

20 MR. MIRANDA: I usually work around the bar
21 area, --

22 MR. PANEQUE: Okay.

23 MR. MIRANDA: -- in that corner there,
24 between the -- the bar and the dance floor.

25 MR. PANEQUE: And from where you work are

1 | you able to observe --

2 | MR. MIRANDA: Yes.

3 | MR. PANEQUE: -- the perimeter of the --
4 | the entire downstairs area?

5 | MR. MIRANDA: That's the idea of standing
6 | there.

7 | MR. PANEQUE: Okay.

8 | So that's the idea that why you stand in
9 | that position?

10 | MR. MIRANDA: I see people coming in; I see
11 | people going out. And I have view of all -- of
12 | the whole floor.

13 | MR. PANEQUE: Okay.

14 | Do you have a recollection of seeing Mr.
15 | Triana walking into the establishment that
16 | evening?

17 | MR. MIRANDA: No.

18 | MR. PANEQUE: Okay.

19 | Do you have a recollection of any ice
20 | bucket having been thrown that evening?

21 | MR. MIRANDA: No, sir.

22 | MR. PANEQUE: Okay.

23 | Well, do you have a recollection of any
24 | altercation having taken place that evening?

25 | MR. MIRANDA: No.

1 MR. PANEQUE: Okay.

2 Now you heard Mr. Triana testified that he
3 was assaulted, he was bleeding, and there was no
4 medical attention rendered.

5 Can you tell us if that's --

6 MR. MIRANDA: As a human being --

7 MR. PANEQUE: -- something that --

8 MR. MIRANDA: -- I could -- I couldn't
9 even, you know, do that. Seeing somebody
10 bleeding and not -- not give them a -- a towel or
11 ice, something, you know. You give them first --
12 first aid.

13 MR. PANEQUE: Okay.

14 Now you have security there.

15 MR. MIRANDA: Six.

16 MR. PANEQUE: Six?

17 MR. MIRANDA: Yes.

18 MR. PANEQUE: How many are downstairs?

19 MR. MIRANDA: Six.

20 MR. PANEQUE: Six?

21 MR. MIRANDA: And two upstairs; one on each
22 door.

23 MR. PANEQUE: Okay.

24 And on that evening, if you recollect, did
25 you have six security personnel working that

1 evening?

2 MR. MIRANDA: I could have had six, five.
3 Maybe one, you know, was out. But approximately
4 five or six, yes.

5 MR. PANEQUE: And tell us a little bit
6 about the security personnel; who are they?

7 MR. MIRANDA: They are hired to see people
8 coming in, check IDs and make sure that there's
9 no problem. They're here -- they're there to
10 walk around and watch the place.

11 MR. PANEQUE: Okay.

12 Now are they under instructions that if
13 anything happens, if someone gets hurt, trips,
14 falls, to render aid?

15 MR. MIRANDA: Yes.

16 MR. PANEQUE: Okay.

17 Have there been occasions when somebody
18 trips and falls and gets hurt or something?

19 MR. MIRANDA: And we sit them down, we give
20 them ice and do you want an ambulance, do you
21 want help.

22 I even -- once we -- we hand a lady a pair
23 of slippers. She had big high heels and she bent
24 her ankle and we lend her -- we gave her a pair
25 of slippers that we had there from one of the

1 employees.

2 MR. PANEQUE: Okay.

3 So the testimony of Mr. Triana that they
4 basically left him unattended, does that seem
5 plausible?

6 MR. MIRANDA: No.

7 MR. PANEQUE: It wouldn't be in keeping
8 with what your procedures are?

9 MR. MIRANDA: Definitely not.

10 MR. PANEQUE: Okay.

11 Now do you recall the officers, both
12 Detective Pena and Detective Dunlay, coming in to
13 see you that evening?

14 MR. MIRANDA: Yes.

15 MR. PANEQUE: Okay.

16 And when they come -- when they came in to
17 see you what was it that they were trying to
18 investigate?

19 MR. MIRANDA: The incident. The asked me
20 questions and I answered them.

21 Did you see anything? Did you --

22 I says, honestly, I didn't see anything
23 fall and if you have something like that, you
24 have chairs flying, you have tables flying.

25 Especially we have high chairs in some area -- I

1 mean high tables. I mean -- and you got to see
2 some-- something's got to give, you know
3 something's got to fall. A bucket's got to fall.
4 They're not gonna throw it and land on the table.

5 I mean there was no ice, no -- you know. I
6 didn't -- I didn't -- and that's the
7 investigation. And then they gave me -- they
8 asked me for the bar cards, the liquor license
9 and invoices and the log. You know, a few
10 paperwork.

11 MR. PANEQUE: And all your documentation
12 was in order?

13 MR. MIRANDA: Yes.

14 MR. PANEQUE: Okay.

15 MR. MIRANDA: As far as I know, yes.

16 MR. PANEQUE: Was there any signs of blood
17 anywhere? Tables? Floor? Chairs? Anything to
18 that effect?

19 MR. MIRANDA: No.

20 MR. PANEQUE: Was it cleaned up before the
21 detectives got there?

22 MR. MIRANDA: No, no, that was -- that was
23 around closing time, I figure. Figure that was
24 around 1:30 when --

25 MR. PANEQUE: Okay.

1 MR. MIRANDA: -- we saw and people were
2 leaving.

3 MR. PANEQUE: Is it your testimony that you
4 did nothing to either clean up an ice tray, a
5 bucket, or blood or anything like that?

6 MR. MIRANDA: No, we don't clean at night.
7 We clean on the following day.

8 MR. PANEQUE: All right. So no actions
9 were taken to try to --

10 MR. MIRANDA: No.

11 MR. PANEQUE: -- cover up an incident that
12 might have taken place there?

13 MR. MIRANDA: Oh, definitely not.

14 MR. PANEQUE: Now, other than yourself, who
15 else is working downstairs?

16 MR. MIRANDA: My son, my son's wife, and we
17 have other employees.

18 MR. PANEQUE: Okay.

19 Now you heard Mr. Triana's testimony that
20 he knew the owner. And, in fact, he described
21 you as tall, light -- dark hair.

22 When was the last time your hair was dark?

23 And don't get offended by the question
24 because I'm heading the same way.

25 MR. MIRANDA: Well, the little that I have

1 left started turning white when I was like 35.

2 MR. PANEQUE: So it's fair to say that on
3 September 4th your hair was more or less the same
4 color as it is now?

5 MR. MIRANDA: Yes.

6 MR. PANEQUE: You had not colored it or
7 anything like that?

8 MR. MIRANDA: No.

9 MR. PANEQUE: And your skin --

10 MS. DILLON: Answer -- answer verbally,
11 sir.

12 MR. MIRANDA: I'm sorry?

13 MS. DILLON: A little louder. Your answers
14 need to be more audible for me.

15 MR. MIRANDA: No.

16 MS. DILLON: Thank you.

17 MR. PANEQUE: And September 4th you weren't
18 sporting a tan or anything like that that would
19 have made you look dark skinned?

20 MR. MIRANDA: No.

21 MR. PANEQUE: Okay.

22 Now Mr. Triana testified that the owner
23 spoke to him that evening. You heard him testify
24 to that.

25 MR. MIRANDA: Yes.

1 MR. PANEQUE: Did you speak to Mr. Triana
2 that evening inside the establishment?

3 MR. MIRANDA: No.

4 MR. PANEQUE: Okay.

5 Did you speak to him outside the
6 establishment?

7 MR. MIRANDA: Yes.

8 MR. PANEQUE: Okay.

9 Did --

10 MR. TRIANA: He talked to me. He lying.
11 He see me.

12 MR. FARMER: Please.

13 MR. PANEQUE: Mayor, I'm gonna ask --

14 MAYOR STACK: Okay. Just -- just one
15 second, sir.

16 He's testifying right now so you can't
17 interfere right now.

18 MR. PANEQUE: The question was did you
19 speak to him outside?

20 MR. MIRANDA: Yes.

21 MR. PANEQUE: And that was the first time
22 you saw him?

23 MR. MIRANDA: Yes.

24 MR. PANEQUE: All right. When you saw him
25 outside was he bleeding?

1 MR. MIRANDA: No.

2 MR. PANEQUE: He was not?

3 MR. MIRANDA: No.

4 MR. PANEQUE: Okay.

5 You have a recollection where you saw any
6 blood on his shirt or anything to that effect?

7 MR. MIRANDA: No.

8 MR. PANEQUE: Okay.

9 MR. MIRANDA: I saw the cut but that's
10 about it.

11 MR. PANEQUE: So all you saw was the cut.
12 And is that similar to what's show on P-3 and
13 P-2?

14 MR. MIRANDA: Yeah, something like that.

15 MR. PANEQUE: Okay.

16 And it's unequivocally your testimony that
17 Mr. Triana was not assaulted inside the
18 establishment of Don Ramon?

19 MR. MIRANDA: Yes.

20 MR. PANEQUE: Okay.

21 I have no further questions.

22 MR. FARMER: Okay, just a couple questions.

23 When you encountered Mr. Triana did
24 somebody say, hey, there's somebody outside in
25 front of the place bleeding?

1 MR. MIRANDA: No, I usually take a walk
2 around 1 o'clock, 1 something, 1:30, just to make
3 sure the area's clear and everything is fine to
4 people starting to come out.

5 MR. FARMER: Okay, so this was on your
6 normal patrol.

7 MR. MIRANDA: Yes.

8 MR. FARMER: And on -- on your normal
9 patrol you came across somebody who was injured.

10 MR. MIRANDA: Yes.

11 MR. FARMER: Correct?

12 When you saw somebody injured -- forget
13 about how he got injured -- what medical
14 attention did you give him?

15 MR. MIRANDA: None.

16 MR. FARMER: None. Okay.

17 MR. MIRANDA: At that point he -- we were
18 closing down --

19 MR. FARMER: Just answer my question.

20 MR. MIRANDA: Okay.

21 MR. FARMER: So you gave him none.

22 MR. MIRANDA: No.

23 MR. FARMER: Did the police arrive?

24 MR. MIRANDA: Right that moment he was
25 flagged down, yes.

1 MR. FARMER: Yes.

2 And who flagged them down?

3 MR. MIRANDA: Mr. Triana did.

4 MR. FARMER: Okay.

5 And do you know who called the police?

6 MR. MIRANDA: No, nobody called the police
7 that I know.

8 MR. FARMER: Oh, that was just by
9 happenstance?

10 MR. MIRANDA: Yes.

11 MR. FARMER: Okay.

12 So when he saw the police coming down the
13 street he waved to them --

14 MR. MIRANDA: Um-hum.

15 MR. FARMER: -- and flagged them down.
16 When he flagged them down did he tell them what
17 happened?

18 MR. MIRANDA: I wasn't -- I wasn't there
19 with the police.

20 MR. FARMER: Okay.

21 MR. MIRANDA: I -- I wasn't there at the --
22 at the moment when he -- he approached the
23 police.

24 MR. FARMER: Okay.

25 So when the police came where did you go

1 back inside?

2 MR. MIRANDA: No, I stay on the corner.

3 MR. FARMER: Okay.

4 So no interaction and you don't know what
5 he told the police?

6 MR. MIRANDA: No.

7 MR. FARMER: But you came to realize
8 though, did you not, that he was alleging that he
9 was attacked and atrociously assaulted in your
10 establishment?

11 You know -- you know -- that came to your
12 attention didn't it?

13 MR. MIRANDA: Yes it did.

14 MR. FARMER: When did it come to your
15 attention?

16 MR. MIRANDA: When the police approached me
17 and asked me if there's -- there was a brawl or a
18 fight or altercation downstairs.

19 MR. FARMER: Okay.

20 Almost immediately after the police arrived
21 they were in your establishment asking you what
22 happened?

23 MR. MIRANDA: Yes.

24 MR. FARMER: All right.

25 Now where your establishment is, what kind

1 of neighborhood is it? What's across the street,
2 up the block?

3 Is anything -- is pretty much stuff closed
4 up by the time you --

5 MR. MIRANDA: There's buildings. There's
6 stores.

7 MR. FARMER: But is there any activity
8 going on when you're closing up or you're pretty
9 much closing down the neighborhood?

10 MR. MIRANDA: There's other clubs around
11 the area, yes.

12 MR. FARMER: Okay. All right.

13 When you saw him on your patrol and you
14 looked at him he was injured was he not?

15 MR. MIRANDA: Yes.

16 MR. FARMER: And he was -- it was an open
17 wound, was it not?

18 MR. MIRANDA: It was a wound. But I --

19 MR. FARMER: Okay. And this is at night by
20 the way, right?

21 MR. MIRANDA: Yes.

22 MR. FARMER: So you could clearly see at
23 night that he was injured?

24 MR. MIRANDA: Um-hum. Yes.

25 MR. FARMER: Okay.

1 Now I want to get back to the surveillance.

2 You have surveillance cameras?

3 MR. MIRANDA: Upstairs I do.

4 MR. FARMER: Not downstairs?

5 MR. MIRANDA: Not downstairs.

6 MR. FARMER: Even though downstairs is
7 where most of the activity is?

8 MR. MIRANDA: No.

9 MR. FARMER: No?

10 MR. MIRANDA: Most of the activity is -- is
11 upstairs because we --

12 MR. FARMER: Okay. You --

13 MR. MIRANDA: -- that open -- only opens on
14 weekends.

15 MR. FARMER: But you stay downstairs most
16 of the time?

17 MR. MIRANDA: Yes.

18 MR. FARMER: That was your testimony?

19 MR. MIRANDA: Yes.

20 MR. FARMER: All right.

21 And are you saying you never saw this man
22 before?

23 MR. MIRANDA: Yes.

24 MR. FARMER: Never saw him and never talked
25 to him? Okay.

1 MS. DILLON: Answer verbally.

2 MR. MIRANDA: Yes.

3 MR. FARMER: All right.

4 Now I want to get this clear. If that --
5 if a man suffered the injuries that are depicted
6 in these pictures downstairs in your establish--
7 establishment that night, you would have seen it?

8 MR. MIRANDA: Yes.

9 MR. FARMER: When you saw him and he was
10 bleeding, did you say --

11 MR. PANEQUE: Objection as to --

12 MR. FARMER: What?

13 MR. PANEQUE: -- the question.

14 MR. MIRANDA: When I saw him --

15 MR. PANEQUE: I don't --

16 MR. MIRANDA: -- he wasn't bleeding.

17 MR. PANEQUE: There's never been --

18 MR. FARMER: Okay.

19 MR. PANEQUE: -- testimony that --

20 MR. FARMER: Let's -- let's do this.

21 MR. PANEQUE: -- he saw him that he was
22 bleeding.

23 MR. FARMER: When you saw him and realized
24 he was injured, --

25 MR. MIRANDA: He was hurt, yes.

1 MR. FARMER: -- he was hurt, did you ask
2 him what happened?

3 MR. MIRANDA: There was no chance that --
4 for that to happen. There was no conversation.

5 MR. FARMER: How long does it take to say
6 what happened?

7 MR. MIRANDA: Well, he was running, you
8 know, back and forth, he was -- you -- you know.
9 He call -- he says I need to call the police.
10 That's it.

11 MR. FARMER: Okay. Okay.

12 And the police came?

13 MR. MIRANDA: Yes.

14 MR. FARMER: He told them the story; they
15 came in and said to you this man was injured
16 outside?

17 The man outside or got flagged down was
18 injured in your place. Did they tell you that?

19 MR. MIRANDA: That's what they said, yes.

20 MR. FARMER: I have no further questions.

21 MR. PANEQUE: Mr. Miranda, is it your
22 testimony that as you came outside and saw Mr.
23 Triana that he was in the process of flagging
24 down the police officer?

25 MR. MIRANDA: That's correct.

1 MR. PANEQUE: And this is Police Officer
2 Pena who was driving in his vehicle?

3 Do you recall?

4 MR. MIRANDA: I don't know the --

5 MR. PANEQUE: Was it a police officer --

6 MR. MIRANDA: I can't recall --

7 MR. PANEQUE: -- driving in his vehicle?

8 Or in --

9 MR. MIRANDA: In a vehicle.

10 MR. PANEQUE: In a vehicle.

11 MR. MIRANDA: In a vehicle.

12 I'm sorry.

13 MR. PANEQUE: There was no --

14 MR. MIRANDA: Can I --

15 Is there water? Got a dry -- dry --

16 No.

17 MR. PANEQUE: I just have a real quick
18 question.

19 There was no opportunity to engage --

20 MR. MIRANDA: No.

21 MR. PANEQUE: -- in conversation with this
22 guy?

23 MR. MIRANDA: No.

24 MR. PANEQUE: There was no opportunity to
25 render aid?

1 MR. MIRANDA: No.

2 MR. PANEQUE: Did he ask for aid?

3 MR. MIRANDA: No, they -- I was there when
4 the ambulance came. They offer him aid and he
5 didn't want it.

6 MR. PANEQUE: Okay.

7 Now these pictures that I show you as P-2
8 and P-3, when you first saw him is that how he
9 looked?

10 MR. MIRANDA: He had a cut. I didn't -- I
11 didn't see the rest --

12 MR. PANEQUE: Okay, was there blood?

13 MR. MIRANDA: No.

14 MR. PANEQUE: You didn't see any blood?

15 MR. MIRANDA: No.

16 MR. PANEQUE: And, in fact, in these
17 photographs, there's no blood?

18 MR. MIRANDA: No.

19 MR. PANEQUE: Okay.

20 MR. FARMER: I'm gonna object to that. The
21 photographs will speak for themselves.

22 MR. PANEQUE: I -- it's the opinion asked
23 of the witness as to what he's seen in the
24 photographs. The Board can take notice of what
25 they also see in the photographs.

1 MR. FARMER: Okay, we're finished?

2 MR. PANEQUE: Yes.

3 No further questions.

4 MR. FARMER: Okay.

5 I would like to offer into evidence these
6 photographs that were marked P-1, P-2, and P-3.

7 MR. PANEQUE: No objection.

8 MAYOR STACK: Just before we do, I -- I'd
9 like to bring the gentleman back up who was
10 injured. I want to ask him a question.

11 Sir, if you could come forward for a
12 minute.

13 MR. TRIANA: Yes.

14 MAYOR STACK: On -- on the night in -- on
15 the night that this happened, the gentleman who
16 just represented himself, Mr. Miranda, as the
17 owner, is that who you spoke to or somebody else?

18 MR. TRIANA: Gentleman was here?

19 MAYOR STACK: Yeah.

20 MR. TRIANA: Yeah, he -- he was close to
21 the -- the incident. I saw the guy; he was in
22 the basement. And he saw the guy who hit me.

23 MAYOR STACK: Okay, but is -- is he the
24 gentleman that you're saying you spoke to at the
25 establishment when you got injured?

1 MR. TRIANA: Yeah.

2 MAYOR STACK: Okay.

3 MR. TRIANA: He's the -- the -- the owner
4 of the place and he's the guy I give it to my
5 business card. He know me; I am taxi driver.

6 MAYOR STACK: Okay.

7 The reason I'm -- the reason I'm asking you
8 what I'm asking you is because you described
9 somebody else different that you said was the --

10 MR. TRIANA: Yeah I said the supervisor
11 maybe but I know -- I know the owner the place.
12 He's -- he was in -- in the incident in the
13 basement.

14 MAYOR STACK: Okay.

15 MR. TRIANA: He -- he was me inside the --
16 the place.

17 MAYOR STACK: But who is the gentleman that
18 --

19 MR. TRIANA: He like --

20 MAYOR STACK: -- you described before? You
21 said had dark hair, --

22 MR. TRIANA: Oh, the security.

23 MAYOR STACK: -- and was taller and --

24 MR. TRIANA: The security supervisor.

25 MAYOR STACK: Security.

1 MR. TRIANA: So but he's the only -- he
2 spoke with me inside the place because when the
3 incident happened he was close to me. I said why
4 you don't do nothing to help me, to tell the
5 security to hold the guy till the police coming.

6 MS. DILLON: Come forward.

7 MR. TRIANA: And he -- he said I don't see
8 nothing and he was close to me. And he know me.
9 And he lying, too, he said he don't know me.

10 MAYOR STACK: Okay.

11 And with -- and with the guy who assaulted
12 you, the person who slapped you or punched you --
13 what you described to Mr. Paneque, let me -- let
14 me ask you about that.

15 Did you -- you didn't know this man before?

16 MR. TRIANA: I never see the guy. He was
17 drink inside the -- that place.

18 MAYOR STACK: And when you came down he was
19 drinking with your ex-girlfriend? He was sitting
20 with her and drinking with your ex-girlfriend?

21 MR. TRIANA: Yeah. He was drinking the
22 table behind my -- my ex-girlfriend -- the person
23 he was -- she was alone in the table.

24 MAYOR STACK: Right. Were they speaking
25 though when you walked in?

1 MR. TRIANA: I don't know exactly and when
2 they come but I -- I explained to the lawyer, she
3 was alone. And she tell me she don't know the
4 guy. He was drinking inside the Don Ramon. He
5 was drunk. So maybe he -- that's what he said he
6 was jealous because I pick her -- I tell her,
7 let's go, the taxi outside.

8 MAYOR STACK: How much time -- how much
9 time in between when the -- when this assault
10 took place, when this alleged assault took place,
11 how much time between when that took place to you
12 leaving the establishment and flagging down the
13 officer on Bergenline Avenue in front of the
14 establishment, how much time was that?

15 MR. TRIANA: This was between -- between 1
16 to 1:30. I know exactly the time.

17 MAYOR STACK: No but how much time -- how
18 much time were you down in the basement of the
19 establishment before you decided to go upstairs
20 and call the police?

21 MR. TRIANA: No, I call the police inside
22 -- when I was inside of the --

23 MAYOR STACK: You called while you were
24 inside?

25 MR. TRIANA: Yeah, I -- I was inside the --

1 the place.

2 MAYOR STACK: And the call went through?
3 It went through to Union City Police?

4 MR. TRIANA: Yup. I went -- I went to the
5 stair and my -- my cellular had signal, so I wait
6 for the police coming. When the police come I go
7 outside to speak to the detective what happened.

8 MAYOR STACK: Okay.

9 MR. TRIANA: So, the owner, he saw me
10 inside the place and he lying that he don't know
11 me. He know me always I go to pick up the -- the
12 passenger because I am taxi driver.

13 He and the security in the door, they don't
14 -- they don't check me never because they know me
15 I am taxi driver. So I don't go inside that
16 place to drink and dancing.

17 MAYOR STACK: Right.

18 MR. TRIANA: And he lying he don't talk to
19 me that night. And he talk to me that night; he
20 see my bleeding. He said I can't let you walk
21 because if you go outside maybe he is kill you.
22 Because we don't know that guy. He was drinking
23 inside of that place.

24 MR. FARMER: Okay.

25 MR. TRIANA: I don't know that guy, too. I

1 | never see before. I never see after the
2 | incident.

3 | MAYOR STACK: And -- and let me ask you a
4 | question.

5 | MR. TRIANA: I said the truth.

6 | MAYOR STACK: Miss Hernandez, who is your
7 | ex-girlfriend, did she stay there with you until
8 | the police arrived and did -- did you finally
9 | leave with her?

10 | MR. TRIANA: No, I no leave with her. I
11 | lost the control so maybe she left because she
12 | was scared because she -- she tell me -- I call
13 | her, why -- why he start to fight with me, he hit
14 | me. He's your boyfriend? Your friend? She
15 | said, no, I never see that -- that guy.

16 | MAYOR STACK: Okay.

17 | MR. TRIANA: He was in -- in Don Ramon, so
18 | I was drink alone, so I --

19 | MAYOR STACK: Okay.

20 | MR. TRIANA: She -- the detective, she call
21 | her, same story. I never see that guy. He was
22 | drinking inside the Don Ramon.

23 | So, maybe he's -- he looking for a problem,
24 | you know, he -- that he -- he was jealous because
25 | I pick her because maybe he -- he was thinking to

1 dancing with her, maybe he was thinking to drink.

2 But I -- I no fight with that guy.

3 MAYOR STACK: She was there by herself?

4 MR. TRIANA: She's there by herself in the
5 table. So that's the reason I tell her that she
6 go -- I come to pick her because I always pick
7 her up.

8 MAYOR STACK: Right.

9 Okay.

10 MR. FARMER: Okay.

11 MR. PANEQUE: I have some follow-up
12 questions, Mayor.

13 MAYOR STACK: Okay, sure.

14 MR. PANEQUE: If I may?

15 Thank you.

16 Mr. Triana, you -- you were very emphatic
17 in pointing that way over there to Mr. Miranda
18 now that you know that he's the owner. But when
19 you --

20 MR. TRIANA: Because he liar.

21 MR. PANEQUE: He lied.

22 When you were talking before on direct
23 examination and you said to me I spoke to the
24 owner that night and I told him everything. I
25 took about four steps back -- he was sitting

1 right here.

2 MR. TRIANA: Yeah. Because I -- I was --

3 MR. PANEQUE: Why didn't you point him out
4 at that point?

5 MR. TRIANA: I don't point the guy
6 because --

7 MR. FARMER: Well, I'm gonna object to
8 that.

9 MR. TRIANA: -- I thinking -- I was
10 thinking --

11 MR. FARMER: Wait. Stop. Stop.

12 MR. TRIANA: -- (indiscernible) -- the
13 supervisor.

14 MR. FARMER: No, no, wait. I'm gonna
15 object to that.

16 You can't say why didn't you do something.
17 If he wanted he could have just said, Mr.
18 Miranda, is he the owner? All right? Mr.
19 Triana, is he the owner?

20 To say that it was incumbent upon him to
21 say, oh by the way, that's the owner, without a
22 question, is wrong.

23 MR. PANEQUE: I'll -- I'll make my argument
24 on my closing argument. But I just want to take
25 the Board's notice to the fact that he points out

1 to Mr. Miranda, after the fact that Mr. Miranda
2 testifies. He describes him completely
3 different; dark hair, dark skin.

4 MR. FARMER: Well, is this --

5 MR. PANEQUE: I had him sitting right
6 here --

7 MR. FARMER: -- is this a summation?

8 MR. PANEQUE: -- but --

9 I'll make my summation.

10 MR. FARMER: Okay.

11 MR. PANEQUE: Okay.

12 MR. FARMER: You have any further questions
13 of him?

14 MR. PANEQUE: No further questions.

15 MR. FARMER: Okay.

16 Thank you.

17 MAYOR STACK: Okay.

18 Thank you, sir.

19 MR. TRIANA: Okay.

20 MAYOR STACK: Thank you.

21 MR. PANEQUE: Mr. Mayor, ladies and
22 gentlemen, Commissioners, what we have here is an
23 allegation by one witness, Mr. Triana, who
24 happens to be the alleged victim of an alleged
25 assault that took -- allegedly took place in my

1 client's establishment.

2 I -- I want to call this Board's attention
3 to the fact that Mr. Triana, in his testimony, he
4 identified that he spoke to the owner, he
5 described the owner and -- and yet even though I
6 was standing right by him at no point did he say
7 that's the person I spoke to.

8 However, when he was referring to Detective
9 Dunlay he turned around and said this is the
10 detective; a detective that he had only met for
11 maybe 15 minutes on that evening and never seen
12 before. And a person whom he allege that he knew
13 my owner from 20 prior occasions that he had been
14 there. Yet, when he's testifying as to, yes, I
15 told the owner that it happened, I talked to him,
16 I had him sitting right there. I -- I even
17 purposely took steps back and stood next to him.

18 Mr. Farmer says I should have had him point
19 him out. No. That's not my job. If he is
20 testifying as to the owner of -- someone that
21 he's seen on 20 prior occasions, he could have
22 pointed him out very easily.

23 He -- my client testified my hair's been
24 light for the last number of years; September 4th
25 I still had light hair, I didn't have dark hair.

1 My skin was not dark because I went to a
2 sun-tanning beach or vacation. Look the same.
3 My client is as fair, as fair as they come.

4 The fact is that what we have here are
5 allegations of an incident that's unsubstantiated
6 by the detectives who do the investigation. They
7 find nothing in the place. They find no beer
8 bucket. They find nothing thrown about. They
9 find no blood about the place.

10 And I call your attention to these
11 photographs that were taken at the scene. I'm no
12 expert on lacerations. I tried to get Detective
13 Dunlay to give us a little bit of his experience.
14 But we have these lacerations here that were
15 taken supposedly very close in proximity to when
16 the incident happened and I -- I want you to look
17 at these photographs closely because I -- I don't
18 see blood.

19 I see a laceration. I see a laceration
20 that's been cleaned up. I don't see blood around
21 the collar. The detectives testified that they
22 don't have a recollection of any blood on the
23 shirt. They don't have a recollection of any
24 blood spewing out.

25 What I see here is a laceration above the

1 right eye, a bruise in the cheek, that could have
2 taken place somewhere else, and then they try to
3 allege that it happened there for whatever
4 ulterior motives that I -- I can't come up with,
5 I don't have an explanation for, other than the
6 facts don't come to the conclusion that it
7 happened inside the establishment.

8 There's no witnesses. There's been no
9 testimony from either Detective Dunlay, from
10 Detective Pena, from -- I'm -- I'm sorry, from
11 the Detective --

12 DETECTIVE DIAZ: Diaz.

13 MR. PANEQUE: -- Diaz, from Officer Pena.

14 There was no testimony that a call came
15 into Headquarters, that there was any other calls
16 that came in indicating that there was an
17 altercation inside Don Ramon restaurant that
18 evening.

19 Usually, if there's some kind of
20 altercation, everybody there has a cell phone,
21 they would have picked up the cell phone and
22 called it in. Okay.

23 There was not even testimony that Mr.
24 Miranda's (sic) phone call came in. The
25 testimony was that he flagged down a police

1 officer that was coming down.

2 Once again, I don't know why he's alleging
3 that it happened but the facts, as they've been
4 presented, don't add up.

5 I most respectfully argue to this Board
6 that my client's been running this establishment
7 for 34 years. He -- his testimony should be
8 given the weight of the evidence on his favor.
9 He's the one who has got the most at risk here
10 because it's his license that's in jeopardy. And
11 the testimony just doesn't add up.

12 Mr. Miranda (sic) said I wasn't rendered
13 any aid. They did nothing for me. The security
14 officer knows me; I've been there many times. So
15 if this security knows him, why wouldn't they
16 help him -- why wouldn't they even say sit down,
17 let me give you an icepack, let me give you a
18 towel. Okay?

19 But more importantly, I go back to these
20 pictures, ten, fifteen minutes after the fact, I
21 mean I -- I -- I get a paper cut in my office and
22 I'm spewing blood all over my shirt, papers. And
23 I can tell you that a paper cut is a lot less
24 severe than this but there's no indication of
25 blood anywhere in this shirt or in this collar.

1 As such I must request, most respectfully,
2 that this Board doesn't put another mark on this
3 license. That they find that this case has not
4 been proven beyond a reasonable doubt and that
5 the matter be dismissed.

6 Thank you.

7 MR. FARMER: Well, first of all we don't
8 have to prove beyond a reasonable doubt.

9 And this is an administrative hearing where
10 the evidence, if it is persuasive to you and if
11 you think it's credible, then you can render a
12 decision. You don't have to do it beyond
13 reasonable doubt and counsel will tell you that.

14 One of the things that came out in the
15 testimony and I thought was interesting that
16 really establishes the injury kind of thing, when
17 asked on cross, Detective Dunlay said their focus
18 was trying to find the person who struck the
19 witness because we were trying to track down an
20 aggravated assault. That was his terminology.
21 An aggravated assault.

22 So, therefore, in his mind the assault was
23 a severe, serious assault.

24 Now this business about the owner, he was
25 standing here and he didn't say that's the owner,

1 -- keep in mind he wasn't -- wasn't asked that
2 but nevertheless that's a red herring.

3 The issue is whether he's the owner, not
4 the owner, whether he was there or wasn't there,
5 an incident occurred inside the place. It's
6 logical.

7 He said he called the police. I think I
8 recall the owner saying when he saw him outside
9 he was calling the police. The police come. He
10 tells them what happened. Dunlay says I believe
11 he wasn't even drinking. Okay? And the
12 situation is take a look at the pictures. The
13 guy had an injury. The question is where did he
14 get it? Are we really gonna believe that it
15 didn't happen inside? Where did it happen?
16 Where else could it happen? What other
17 circumstances could it happen?

18 Of course not; it happened inside the
19 place. He's bleeding. The assault is an
20 aggravated assault. And there's no other
21 reasonable explanation.

22 Now if you take the owner's point of view
23 he never saw the victim in his life. Well, if
24 that's the case you tell me how logically you can
25 think that a person under those circumstances --

1 | never saw the guy, stone sober, walks in --
2 | doesn't walk in, calls the police and have them
3 | come over to see him when he's bleeding.

4 | Where did he get the injury? There's no
5 | other explanation. All right? And the fact of
6 | the matter is --

7 | Let me just look at one thing.

8 | (Whereupon, there was a pause in the
9 | proceedings.)

10 | MR. FARMER: Yeah. They -- they said they
11 | saw -- the owner said I saw him calling the cops.
12 | Police come; he flags them down, says I got
13 | injured there. What other explanation is there?

14 | So it's not beyond a reasonable doubt.
15 | It's about -- it's about this. It's about this
16 | Board hearing these facts, looking at that --
17 | those pictures and saying two things.

18 | First of all do I believe it didn't happen?
19 | And, secondly, if I believe it happened -- and
20 | all indication, investigation point that way --
21 | is the kind of stuff we want to have happen?

22 | So, that's that.

23 | Thank you very much.

24 | MAYOR STACK: And, Mr. Farmer, what is the
25 | recommended penalty for such an offense?

1 MR. FARMER: Fifteen days.

2 MAYOR STACK: Fifteen days. All right.

3 All right, the Board will reserve our
4 decision until the next Commission Meeting.

5 MR. PANEQUE: Thank you, Mayor. Thank you,
6 ladies and gentlemen.

7 MAYOR STACK: Thank you very much. Thank
8 you.

9 Thank you, Mr. Farmer.

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1 DEPUTY CITY CLERK: At this time, Mayor,
2 would you like to go into Closed Session?

3 MAYOR STACK: Yes, we'll be going into
4 Closed Session at this time.

5 DEPUTY CITY CLERK: May I have a motion to
6 go --

7 COMMISSIONER RIVAS: Motion.

8 DEPUTY CITY CLERK: Motion by Commissioner
9 Rivas.

10 COMMISSIONER VALDIVIA: Second.

11 DEPUTY CITY CLERK: Second by Commissioner
12 Valdivia.

13 Commissioner Rivas?

14 COMMISSIONER RIVAS: Yes.

15 DEPUTY CITY CLERK: Commissioner Valdivia?

16 COMMISSIONER VALDIVIA: Yes.

17 DEPUTY CITY CLERK: Commissioner
18 Martinetti?

19 COMMISSIONER MARTINETTI: Yes.

20 DEPUTY CITY CLERK: Mayor Stack?

21 MAYOR STACK: Yes.

22

23 (Whereupon, the Board moved to Closed
24 Session at 8:42 p.m.)

25

1 (Whereupon, the Board returned to Open
2 Session at 9:11 p.m.)

3

4 COMMISSIONER RIVAS: Motion to open.

5 DEPUTY CITY CLERK: Okay, motion is made to
6 go back into Open from Commissioner Rivas.

7 Second?

8 COMMISSIONER VALDIVIA: Second.

9 DEPUTY CITY CLERK: By Commissioner
10 Valdivia.

11 Commissioner Rivas?

12 COMMISSIONER RIVAS: Yes.

13 DEPUTY CITY CLERK: Commissioner Valdivia?

14 COMMISSIONER VALDIVIA: Yes.

15 DEPUTY CITY CLERK: Commissioner
16 Martinetti?

17 COMMISSIONER MARTINETTI: Yes.

18 DEPUTY CITY CLERK: Mayor Stack?

19 MAYOR STACK: Yes.

20

21 **ADJOURNMENT:**

22

23 DEPUTY CITY CLERK: Mayor, there's nothing
24 left on the agenda. May I have a motion to
25 adjourn?

1 COMMISSIONER RIVAS: Motion.

2 DEPUTY CITY CLERK: Motion by Commissioner
3 Rivas.

4 COMMISSIONER MARTINETTI: Second.

5 DEPUTY CITY CLERK: Second by Commissioner
6 Martinetti.

7 Commissioner Rivas?

8 COMMISSIONER RIVAS: Yes.

9 DEPUTY CITY CLERK: Commissioner Valdivia?

10 COMMISSIONER VALDIVIA: Yes.

11 DEPUTY CITY CLERK: Commissioner
12 Martinetti?

13 COMMISSIONER MARTINETTI: Yes.

14 DEPUTY CITY CLERK: Mayor Stack?

15 MAYOR STACK: Have a good night. Good
16 night, --

17 DEPUTY CITY CLERK: Okay.

18 MAYOR STACK: -- everybody.

19 Thank you, Erin.

20 Good night.

21 DEPUTY CITY CLERK: Thank you.

22

23 (Whereupon, the proceedings were concluded
24 at 9:11 p.m.)

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_____	Brian P. Stack
_____	Maryury A. Martinetti
_____	Celin J. Valdivia
_____	Tilo E. Rivas

Board of Commissioners

Attest:

Dominick Cantatore,
Acting City Clerk

Attest:

Erin Knoedler,
Deputy City Clerk

1 STATE OF NEW JERSEY:

2 :

3 COUNTY OF ESSEX :

4

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 Tuesday, January 17, 2017 and digitally
10 recorded.

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25 Monitored and Proofread by: Deborah Dillon