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S63136

CERTIFIED ORIGINAL

STATE OF ILLINOIS)
) SS.
COUNTY OF K A N E)

BEFORE THE LIQUOR CONTROL COMMISSION
OF THE CITY OF ST. CHARLES

In Re the Matter of:)
)
CHIEF JAMES LAMKIN,)
)
Petitioner,)
)
and)
)
HEALTH NUTS, LTD.,)
d/b/a THE FILLING)
STATION,)
300 West Main Street)
St. Charles, Illinois.)
)
Respondent.)

REPORT OF PROCEEDINGS
City of St. Charles Council Chambers
2 East Main Street
St. Charles, Illinois 60174
October 14, 2013
4:30 p.m.

Reported by: Joanne E. Ely,
CSR, RPR
Notary Public, Kane County, Illinois

1 PRESENT:

2 MR. RAY ROGINA, Chairman;

3 MR. CHUCK AMENTA, Member;

4 MR. ROBERT GEHM, Member;

5 MS. MAUREEN LEWIS, Member; and

6 MS. RITA ANNE PAYLEITNER, Member.

7 ALSO PRESENT:

8 MS. TINA NILLES, Administrative Assistant;

9 MR. DOUGLAS R. CUSCADEN,
Attorney for the Commission; and

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MR. TIMOTHY D. O'NEIL,
11 Attorney for the Petitioner.

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1 I N D E X

2

BRETT RUNKLE

3

Direct Examination
4 By Mr. O'Neil 8
5 Cross-Examination
By Mr. Milligan 23
6
Redirect Examination
7 By Mr. O'Neil 25
8 Recross-Examination
By Mr. Milligan 26
9
10 JAMES LAMKIN
11 Direct Examination
By Mr. O'Neil 28
12
Cross-Examination
13 By Mr. Milligan 31
14 Redirect Examination
By Mr. O'Neil 36
15
16 BRETT RUNKLE
17 Direct Examination
By Mr. Milligan 37
18
Cross-Examination
19 By Mr. O'Neil 45
20
21
22
23
24

1 I N D E X
(Continued)
2
3 LAUREN JANKOWSKI

4 Direct Examination
By Mr. Milligan 47
5
Cross-Examination
6 By Mr. O'Neil 57
7 Redirect Examination
By Mr. Milligan 64
8
9 closing Statement by Mr. O'Neil 66, 74
10 Closing Statement by Mr. Milligan 68
11
12 E X H I B I T
13
Petitioner's Exhibit No. 1 29
14
15
16
17
18
19
20
21
22
23
24

1 CHAIRMAN ROGINA: I would like to
2 call the St. Charles Liquor Commission to order.
3 Tina, would you call the roll.
4 MS. NILLES: Gehm.
5 MEMBER GEHM: Here.
6 MS. NILLES: Payleitner.
7 MEMBER PAYLEITNER: Here.
8 MS. NILLES: Amenta.
9 MEMBER AMENTA: Here.
10 MS. NILLES: Lewis.
11 MEMBER LEWIS: Here.
12 CHAIRMAN ROGINA: As an introduction
13 today, I'd like to start by saying that Section
14 5.08.030 of the St. Charles Municipal Code
15 provides that the local liquor control
16 commissioner may revoke for cause all local
17 liquor licenses issued to persons or entities for
18 premises within the city and to impose fines as
19 authorized in the St. Charles Municipal Code.
20 Both under the section cited above and
21 under Chapter 235, Section 5/7-5 of the Illinois
22 Compiled Statutes, the local liquor commissioner
23 is required to hold a public hearing after notice
24 to the licensee in which the licensee is afforded

1 an opportunity to appear and defend.
2 Pursuant to Section 5.08.030 and Section
3 5.08.035 of the St. Charles Municipal Code, this
4 hearing is being conducted by the Local Liquor
5 Commission at the request of the Local Liquor
6 Commissioner.
7 The Filling Station has been charged with a
8 violation of Section 5.08.250 of the St. Charles
9 Municipal Code in that on August 19th, 2013, it
10 allowed a patron to exit its premises while in
11 possession of an alcoholic beverage.
12 The penalty for such a violation in
13 addition or in lieu of a suspension for a
14 first-time offense, a fine can be imposed and
15 shall not exceed $1,000.
16 The licensee has pleaded not guilty to the
17 citation.
18 For the record, the licensee is present
19 pursuant to notice.
20 And, Mr. Milligan, you are here today and
21 you acknowledge notice of the hearing.
22 MR. MILLIGAN: Correct.
23 CHAIRMAN ROGINA: Do you have legal
24 counsel?

1 MR. MILLIGAN: No.
2 CHAIRMAN ROGINA: All right.
3 Representing Chief Lamkin in this matter is Tim
4 O'Neil, representing the Liquor Commissioner is
5 Doug Cascaden.
6 Now, the order of this hearing will be as
7 follows: The prosecution may present evidence in
8 its case with the right of the licensee to
9 cross-examine.
10 The licensee may present any defense or
11 mitigating evidence with the right of the
12 prosecution to cross-examine.
13 A summary of the case may be made by the
14 prosecution and the licensee. All witnesses that
15 are going to testify shall be sworn, and they
16 will sworn by the court reporter.
17 Strict rules of evidence will need not be
18 adhered to, although the Commission expects to
19 exercise control over this hearing to ensure that
20 repetitive testimony does not unduly prolong the
21 hearing. In other words, we'll try to stay
22 somewhat informal with this as much as possible.
23 A court reporter is present and will take
24 the proceedings verbatim, and the Commission,

1 members of the Commission certainly are
2 allowed -- and I would suppose it would be after
3 the lawyers ask questions. You certainly will be
4 allowed to ask any questions you want of any
5 witness, perfectly permitted.
6 So with that backdrop, unless I've missed
7 something here, I would ask the prosecutor to
8 call your first witness.
9 MR. O'NEIL: Thank you, your Honor.
10 Officer Runkle.
11 How about if we stand in between so I can
12 look at him, he can look me, and I can put my
13 little notes down here.
14 CHAIRMAN ROGINA: That will be fine.
15 MR. O'NEIL: Great. Thank you.
16 Sir, would you be sworn, please.
17 (Witness duly sworn.)
18 BRETT RUNKLE,
19 called as a witness by the Petitioner, having been
20 first duly sworn, was examined and testified as
21 follows:
22 DIRECT EXAMINATION
23 BY MR. O'NEIL:
24 **Q Sir, would you state for the Commission your name**

1 **and age, please.**
2 A Brett Runkle, 36 years old.
3 Q **What is your occupation?**
4 A Police officer.
5 Q **By whom are you employed?**
6 A City of St. Charles.
7 Q **How long have you been a sworn peace officer for**
8 **the City of St. Charles?**
9 A I'm in my ninth year now.
10 MR. O'NEIL: By the way, as a
11 housekeeping matter, your Honor, I believe the
12 charge states that on or about August 19th.
13 CHAIRMAN ROGINA: The case report
14 says 8/16.
15 MR. O'NEIL: Right. I believe what
16 you read into the record said August 19th. I
17 think that was the day it was --
18 CHAIRMAN ROGINA: Let the record
19 reflect then we made that amendment to
20 August 16th, 2013.
21 MR. O'NEIL: Thank you.
22 CHAIRMAN ROGINA: Thank you, Counsel.
23 BY MR. O'NEIL:
24 Q **Drawing your attention to August 16th, 2003, at**

approximately 2:03 a.m., were you so working as a peace officer?

A I was.

Q What was your position at that time?

A Where was I?

Q Yes, sir.

A I was downtown by the bars on the west side.

Q Specifically, where were you?

A I was in the 09 -- 100 block of -- 099 block of North 3rd street, kind of right outside the Filling Station by the back because there were some guys being a little bit rowdy.

Q Okay. Were you on foot? Were you in a squad? How were you situated?

A I was sitting in my squad at the time.

Q What direction was your squad car facing?

A Southbound.

Q So your car was facing south towards Main Street?

A Yes.

Q Approximately, how many feet north of the Filling Station property?

A It was kind of at the back, about where the driveway is to the back of the Filling Station, just south of there.

1 Q **As you were sitting there, what, if anything, did**
2 **you see at the corner of North 3rd Street and**
3 **Main Street?**
4 A I saw two subjects. They came out of the Filling
5 Station around the corner there and started
6 walking toward my direction northbound.
7 Q **So you saw two subjects coming around the corner;**
8 **is that correct?**
9 A Correct.
10 Q **That's from the patio area outside the Filling**
11 **Station?**
12 A That's correct.
13 Q **The exit from the patio area is approximately how**
14 **far away from the corner of Main and 3rd?**
15 A 10 feet.
16 Q **As you saw them walking northbound on 3rd Street,**
17 **could you describe the male that you saw?**
18 A The male subject had a blue shirt on. He had
19 like piercings in his face. He was with a
20 female.
21 Q **Was the male a white man?**
22 A Yes.
23 Q **The female that you saw, was she also white?**
24 A Female white, yes.

1 CHAIRMAN ROGINA: Counsel, can I ask
2 the witness to speak into the --
3 THE WITNESS: Talk louder, sorry,
4 sir.
5 CHAIRMAN ROGINA: Step up. You can
6 bend it down. Thank you.
7 BY MR. O'NEIL:
8 Q **All right. What direction were they proceeding?**
9 A North.
10 Q **As they were coming north, that was toward your**
11 **squad car?**
12 A Correct.
13 Q **What did you see?**
14 A I saw shortly after that -- when they were
15 walking, they were kind of hurrying north, but at
16 the same time -- about the same time I heard some
17 commotion behind me, and it was just an
18 intoxicated subject making some motions and being
19 loud.
20 So I turned back, and I saw an employee of
21 the Filling Station coming out and was like
22 yelling and chasing after the people that were
23 walking north.
24 Q **So you saw someone emerge from the Filling**

Station.

Did you know that person at that time?

A Did I know the third subject?

Q Yes, the person that came out.

A I did not personally know her. She had like the waitress shirt or whatever you want to call it on, and she was going after the people.

Q All right. What did you think when you saw the employee from the Filling Station running after the male white and the female white?

A My first assumption was that they ran out on their tab, and she was trying to catch them to get the money.

Q Did you have a conversation with her, the employee?

A Yeah. I eventually -- yeah, I turned my squad around to see if she needed help, and she just told me that she had a phone. She thought the female left her phone behind, and she was trying to stop them to give them back their phone.

Q All right. Did she identify herself, the employee?

A Yeah. She was an employee at the Filling Station, Ms. Jankowski.

1 Q **Lauren Jankowski?**
2 A Correct.
3 Q **Did you verify that she was an employee of the**
4 **Filling Station?**
5 A Yes.
6 Q **So you turned your squad around to go northbound.**
7 **At that time did you see the male white and**
8 **the female white?**
9 A Yeah. As she came out yelling at them, pursuing
10 them, they kind of hurried up and sped up like
11 they were trying to get away, and that's why I
12 assumed that they were trying to get out of
13 their tab.
14 Q **When you say "sped up," they were on foot;**
15 **correct?**
16 A Correct.
17 Q **But their pace picked up?**
18 A Yes. Like they were trying to get away.
19 Q **Where did you see them go?**
20 A They went on Cedar toward like behind the Alibi
21 there toward the Breadsmith.
22 Q **What did you do?**
23 A Well, I followed them trying to stop them. I
24 told Jankowski I was going to try and stop them

for her because they were getting away from her.
I watched the male and the female -- he kind of hurried her behind -- there was a car parked across the back of Alibi's facing westbound on Cedar right by the Taste of Himalayas there, and they kind of hurried behind there, and then the male in the blue shirt came back toward Jankowski, and the female continued with a different guy.

Q Okay. So the male white that you had seen leave the area of the Filling Station with the female, you said he hurried her behind a car.
What do you mean by that?

A Because they were hurrying already like they were trying to get away from her, so they like hid -- almost like trying to hide behind the car. They went behind the car to try and lose sight or whatever.

Q So after that the original male white with the blue shirt came back to speak to you and Jankowski?

A Correct. I told him that she was trying to stop him, that she had a phone she thought was theirs, and so he went and -- went to make contact with

her, and I watched the female and another male. It looked like they were hurrying away still.

Q So the original female that you saw leaving the Filling Station was now with a second male?

A Correct.

Q All right. Where were they going?

A They were walking toward the Breadsmith.

Q Okay. Pursuant to that, did you go to the Breadsmith parking lot?

A Yeah. I pulled into the Breadsmith lot and made contact with them because I could see they were -- as I pulled in, they started walking the other way, in the opposite direction of me. They saw me, and they started walking away from me, which raised my suspicion of what was going on.

I could see they were trying to like hide something at their side, and then the male --

Q On their side, the side that was facing you? Away from you?

A The far side away from me.

Q In other words, if I'm walking away from you, it wouldn't be in my right hand, it would be in my left hand to obscure your vision?

A Correct.

1 Q **What did you do then?**
2 A I could see the male tried to get the female on
3 his far side to hide her, and I could see she had
4 two glasses in her hand at that time, at her
5 side.
6 So I got out of my car and told them to
7 stop, and they kept walking away from me. So I
8 yelled at them again to stop and come back, and
9 they did.
10 Q **Did both the female and the male, the second male**
11 **return then to your squad?**
12 A Well, not to my squad, but to where I was, yes.
13 Q **Now, the female white, did she identify herself?**
14 A Her name was -- last name was Guthrie, if I
15 remember correctly.
16 Q **Does Adriana Guthrie sound familiar?**
17 A Correct.
18 Q **As she walked back towards you after the second**
19 **time you told them to stop, what did she have in**
20 **her hands?**
21 A She had two glasses that were near full of
22 liquid.
23 Q **All right. These weren't plastic. These were**
24 **glass containers?**

A Yeah. Commonly used at like bars, you know. I don't know what the technical name of them are.

Q Based upon what you observed that night, how full were the glasses?

A Probably about three-fourths -- three-fourths full.

Q Did the liquid in the container -- there was liquid in the containers?

A Correct.

Q Was there also ice contained inside those two glasses?

A Correct.

Q Now, the second male white, he was identified as Dennis Lange, Jr.?

A That's correct.

Q What, if anything, unusual did you notice about him?

A He had a bulge in his shirt which you could clearly see was another glass. So I asked him to take it out, and he did.

Q All right. And he handed it to you?

A Correct.

Q What was within that glass container?

A The same liquid, whatever it was.

1 Q **Did the liquid in that glass also contain ice?**
2 A Correct.
3 Q **Now, this was on August 16th about 2:03 in the**
4 **morning; is that correct?**
5 A Yes.
6 Q **That's in the summer?**
7 A Yes, sir.
8 Q **Was it warm out that night or cold out?**
9 A Warm.
10 Q **Did it appear that any of the ice had begun to**
11 **melt or -- in other words, was the ice still in**
12 **cube fashion?**
13 A Yeah. It was still visible.
14 Q **All right. Now, Mr. Lange told you what the**
15 **drink that he had was called; is that correct?**
16 A Yeah. He told me it was a Rainmaker. He said it
17 was basically like a Long Island Ice Tea except
18 with lemonade versus tea.
19 Q **Did Ms. Guthrie identify the liquid that was**
20 **contained in the two glass cups that she had in**
21 **her hands?**
22 A Yeah. They said they were all the same.
23 Q **Did you independently, based upon your training**
24 **and experience, smell the containers?**

A Correct.
Q Based upon your training and experience, what did those containers -- what did they smell like?
A An alcoholic beverage.
Q Are you familiar with the procedures of the Liquor Commission concerning about when the bars are supposed to stop serving liquor?
A The time that I'm aware of is 1:20.
Q 1:20 is last call?
A Correct.
Q When are they supposed to start asking patrons to leave?
A It should be before the 2:00 o'clock time. So everybody should be out before 2:00 o'clock.
Q The ordinance clearly states that all patrons have to exit the premises by no later than 2:00 o'clock a.m.; is that correct?
A Correct.
Q Now you were approximately 100 feet north of the corner of Main Street and 3rd Street when you saw the two walk around the corner; is that correct?
A Correct.
Q You noted that that time was 2:03 a.m.; correct?
A About that time, yeah.

1 Q **Now, later that evening after this incident or**
2 **just shortly after it, did you have a**
3 **conversation with Mr. Milligan?**
4 A I did. I asked the subjects who had the glasses
5 if they would be willing to go back and talk to
6 Mr. Milligan about what he wanted to do, if he
7 wanted to pursue charges against them for
8 stealing the glasses.
9 Q **And did they return with you?**
10 A Yes, they did.
11 Q **Who had custody of the glasses at that time?**
12 A The other subject did.
13 Q **Okay. You made them walk back?**
14 A Yeah. They walked back with me, volunteered.
15 Q **Who else was present other than Ms. Guthrie,**
16 **Mr. Lange, and Mr. Milligan?**
17 A Ms. Jankowski.
18 Q **Okay. Do you know Mr. Milligan from before?**
19 A Just from doing bar checks and stuff.
20 Q **What did you say to him, and what did he say**
21 **to you?**
22 A I asked him if he wanted to do anything about
23 these people who stole his glasses, wanted to
24 pursue charges, and he said no. He took the

1 glasses, and then he went inside -- the glasses
2 went inside.
3 Q He took the glasses from Guthrie and Lange and
4 returned them inside the Filling Station?
5 A Correct.
6 Q Other than for a brief moment when the two
7 subjects, the Male White No. 1 and Adriana
8 Guthrie turned the corner at 3rd and Cedar, did
9 you lose sight of these people?
10 A No.
11 Q Is there anywhere in between when you first saw
12 them at 3rd and Main and when ultimately you
13 recovered the glasses full of alcohol up on the
14 Breadsmith parking lot where they could have
15 procured alcoholic beverages named Rain Man or
16 Rainmaker.
17 A No.
18 Q Okay. Had they left alcoholic beverages out in a
19 parking lot somewhere earlier in the evening,
20 would the ice still be in the glass -- still be
21 contained in the glasses?
22 A Most likely not.
23 Q That's based on your training and experience that
24 ice melts on warm, humid evenings?

1 A That's correct.
2 MR. O'NEIL: I have no further
3 questions of this witness.
4 CHAIRMAN ROGINA: Thank you.
5 Before we go to cross-examination, does any
6 member of the Commission have any further
7 questions for the officer here?
8 MEMBER GEHM: None for me.
9 MEMBER PAYLEITNER: No, sir.
10 MEMBER AMENTA: No, sir.
11 CHAIRMAN ROGINA: Mr. Milligan,
12 cross-examination.
13 MR. MILLIGAN: Sure.
14 CROSS-EXAMINATION
15 By MR. MILLIGAN:
16 Q **You mentioned the time -- the lawyer brought up**
17 **the time as approximately 2:03, and I'm wondering**
18 **when did you document officially the time?**
19 A I don't recall the exact time I documented.
20 Q **Okay. Would it have been when you were writing**
21 **up the report or when you were questioning the**
22 **people in front of the restaurant?**
23 A It was whenever I -- right after I saw the people
24 come out and I had time to call it out.

1 Q But this is not about the time; correct? As far
2 as you know, we weren't violating any time
3 ordinances?
4 A As far as I know, this hearing is about the
5 glasses being out past --
6 Q Right. Because the time --
7 MR. O'NEIL: If I may, your Honor, we
8 will stipulate that the charge is not violating
9 the time.
10 CHAIRMAN ROGINA: So stipulated.
11 MR. MILLIGAN: Okay. I would like to
12 recall this witness after the prosecution is
13 finished presenting its case, if I can.
14 CHAIRMAN ROGINA: To recall.
15 MR. MILLIGAN: Yes.
16 CHAIRMAN ROGINA: All right. I'll go
17 back to the prosecution and ask if you have any
18 other witnesses to call.
19 MR. O'NEIL: Just one.
20 CHAIRMAN ROGINA: All right.
21 MR. MILLIGAN: Thank you.
22 MR. O'NEIL: I have one redirect
23 question to ask.
24 CHAIRMAN ROGINA: That's fine. We'll

1 allow the redirect, and after the redirect, if
2 you want to call him as a witness, you may do so.
3 MR. MILLIGAN: All right.
4 CHAIRMAN ROGINA: Do you have further
5 cross-examination for this witness?
6 MR. MILLIGAN: No, I do not.
7 CHAIRMAN ROGINA: Thank you.
8 Redirect.
9 REDIRECT EXAMINATION
10 BY MR. O'NEIL:
11 Q **Officer Runkle, the report states 2:03 p.m.**
12 **What is the procedure for making a call**
13 **out?**
14 A When I see something, I call it out.
15 Q **As soon as you saw them exiting the corner, did**
16 **you make the call out?**
17 A As soon as I knew that, yeah, I had an issue
18 going on, I called it out.
19 MR. O'NEIL: All right. No further
20 questions, your Honor.
21 CHAIRMAN ROGINA: All right. Any
22 further witnesses? He said he's going to call
23 him on a possible recall.
24 MR. MILLIGAN: I do have one more

1 question because I didn't understand.
2 What's a call out?
3 CHAIRMAN ROGINA: Come on up, sir.
4 RECROSS-EXAMINATION
5 BY MR. MILLIGAN:
6 Q **He asked you what a call out is.**
7 **What's that?**
8 A For example, if I see a fight start right in
9 front of me or I see somebody urinate in the
10 alley, I'll call it out on my radio to let the
11 dispatchers know that I'll be out with them --
12 Q **Okay.**
13 A -- so they don't dispatch me to something else.
14 Q **So you did a call out when?**
15 A When I saw that there was an issue.
16 Q **With the alcohol down by the Breadsmith?**
17 A No. When there was an issue -- when your
18 employee came out chasing some subjects.
19 Q **Okay. Is that time documented somewhere?**
20 MR. LAMKIN: 2:03.
21 MR. MILLIGAN: On?
22 MR. O'NEIL: Did you get a copy of
23 the report, sir?
24 MR. MILLIGAN: The report stated that

as he -- according to his recollection, it was approximately 2:03. It didn't mention that the time was documented somewhere.

This isn't about the time, but it was brought up, and, you know, I dispute that it was 2:03, and I just wanted to get that out of the way. That's why I had this question, but since it's not about that, you know, I can --

MR. O'NEIL: We're not proceeding on a charge that you violated the time.

MR. MILLIGAN: All right. Thank you.

CHAIRMAN ROGINA: Thank you, Officer. I really appreciate it, but stick around. He may recall you, I guess, for what we would call a hostile witness, for lack of a better word.

(Witness excused.)

MR. O'NEIL: I'd like to call Chief Lamkin just briefly.

CHAIRMAN ROGINA: Chief Lamkin.

MR. O'NEIL: Again, this is kind of out of order, but I believe you're going to deliberate after this. The chief is just going to make a recommendation as far as in the event you find a violation, as the petitioner, what he

1 would like see as a remedy.
2 CHAIRMAN ROGINA: Thank you.
3 MR. O'NEIL: Would you raise your
4 right hand, sir.
5 (Witness duly sworn.)
6 JAMES LAMKIN,
7 called as a witness by the Petitioner, having been
8 first duly sworn, was examined and testified as
9 follows:
10 DIRECT EXAMINATION
11 BY MR. O'NEIL:
12 Q **I have been waiting for this for many years,**
13 **asking you questions under oath, Chief.**
14 **Sir, would you state your name for the**
15 **record.**
16 A James Lamkin.
17 Q **Sir, what is your occupation?**
18 A I'm the police chief for the City of St. Charles.
19 Q **How long have you been the police chief for the**
20 **City of St. Charles?**
21 A About 10 years.
22 Q **Prior to being the police chief of the City of**
23 **St. Charles, were you employed?**
24 A Yes.

1 Q How were you employed?
2 A I was a police officer in the City of Elgin.
3 Q How long were you with the City of Elgin?
4 A 23 years.
5 Q What was your final rank when you left the City
6 of Elgin?
7 A Deputy chief.
8 Q In your career, have you been involved in
9 either -- first, as a patrol or later, involving
10 an alleged liquor code violation?
11 A Yes.
12 Q Approximately how many?
13 A 50.
14 (Petitioner's Exhibit No. 1
15 marked for identification.)
16 BY MR. O'NEIL:
17 Q Okay. Sir, I'm going to show you what's City
18 Exhibit No. 1 -- well, actually Chief's Exhibit
19 No. 1. This was provided to me by Tina Nilles.
20 Have you had the opportunity to review that
21 exhibit?
22 A Yes.
23 Q All right. Based upon this exhibit, are you
24 ready to make a recommendation, should the

1 **Commission find a violation, as to what a**
2 **possible remedy might be?**
3 A Yes.
4 MR. O'NEIL: At this time, I've got
5 copies. This is a copy of the history of the
6 incident, when it occurred, Chief's Exhibit 1.
7 You're going to have to share, I guess.
8 CHAIRMAN ROGINA: I have a copy.
9 BY MR. O'NEIL:
10 **Q Now, Chief, based upon the incidents in Chief's**
11 **Exhibit 1 and based upon the parameters of the**
12 **liquor code as far as penalties are concerned,**
13 **what are you recommending that the Commission do**
14 **should they find a violation?**
15 A I would recommend that the Commission review all
16 of the possibilities, whether that's suspension
17 or fine; and in addition to that, due to the
18 nature and expenses that go with holding these
19 hearings, that that might be taken into
20 consideration, that I have a lawyer representing
21 myself and the Commission will have some legal
22 fees, that those legal fees -- in the event that
23 the license holder is found to be at fault, that
24 those legal fees are assessed to the license

1 holder.
2 Q **You're not making a specific recommendation about**
3 **a suspension, a fine, or both, but that the**
4 **Commission consider that as well as pay the legal**
5 **fees that you have occurred pursuant to the code?**
6 A Yes, sir.
7 MR. O'NEIL: I have no further
8 questions.
9 CHAIRMAN ROGINA: Thank you.
10 Mr. Milligan, do you want to cross-examine.
11 MR. MILLIGAN: Yes. I'd like to.
12 First, that thing that just got passed
13 out -- thank you. 2011. Okay. I'll have to
14 look at this in a minute.
15 CROSS-EXAMINATION
16 BY MR. MILLIGAN:
17 Q **First of all, Chief, I'd like to thank you for**
18 **your service to the community. I think you run a**
19 **professional police force.**
20 A Thank you.
21 Q **First off, have you ever known me to be**
22 **disrespectful or uncooperative with the police in**
23 **any way?**
24 A Myself personally, no.

1 Q Okay. Now, we're here today because someone left
2 the Filling Station with alcohol.
3 Does this hearing happen automatically
4 because of that, or is it officer discretion or
5 your discretion to whether or not this proceeds
6 to a hearing?
7 A The officers document what occurred. That report
8 is forwarded to me. My review of the report --
9 based on my review of the report, I forward that
10 to the Liquor Commission.
11 Q All right. Earlier today I Googled some
12 shoplifting statics, and this is somewhat related
13 because they did leave with -- you know, they
14 left with something. At least one of them had it
15 stashed in his clothing.
16 But the National Association for
17 Shoplifting Prevention was the first thing that
18 came up. It's shopliftingprevention.org, and on
19 the home page it states that there are $13
20 billion shoplifted every year in this country and
21 only 1 in 49 shoplifters are actually caught.
22 Why do you suppose that is? Does that
23 sound familiar or even reasonable?
24 MR. O'NEIL: I'm going to object to

1 **the relevance to this hearing.**
2 MR. MILLIGAN: Okay. Well, it's
3 relevant because shoplifters also put things in
4 their clothing, and they get away with it 49
5 times before they get caught.
6 MR. O'NEIL: I would respond, if I
7 may, that in the event this was a shoplifting
8 case, I don't think they were full of Rain Man
9 and ice and then walk out with them.
10 CHAIRMAN ROGINA: It seems to me that
11 you certainly can use that stat in your closing
12 argument or closing summary --
13 MR. MILLIGAN: Okay.
14 CHAIRMAN ROGINA: -- as a point of
15 order. To ask the chief these questions -- I
16 think the chief is here to make recommendations.
17 The scope of your questioning needs to be on what
18 was asked on direct.
19 MR. MILLIGAN: All right. I'll do
20 that.
21 BY MILLIGAN:
22 Q **Chief, let's say, I suspect someone is getting**
23 **ready to walk out with alcohol, either because**
24 **they've stashed it or it's in their shirt.**

1 **Am I legally authorized to forcibly detain**
2 **them or search them?**
3 A I think you're authorized to do whatever you need
4 to do to make sure that the alcohol doesn't walk
5 out on the street. I'm in no position to legally
6 advise you what you should do. You should
7 probably talk to your own attorney for that
8 advice.
9 Q **Okay. If someone -- just because someone does**
10 **walk out with alcohol, and let's just say that's**
11 **a fact, am I automatically guilty of committing**
12 **an offense?**
13 **MR. O'NEIL: Objection. Asking this**
14 **witness for a legal conclusion.**
15 BY MR. MILLIGAN:
16 Q **Okay. Would you suspect that that's the case?**
17 CHAIRMAN ROGINA: I think, again,
18 Mr. Milligan, that's for the trier of fact up
19 here to determine based upon the statute. I
20 think the chief is --
21 MR. MILLIGAN: Well, he is the chief
22 of police. I'm asking a legal question.
23 CHAIRMAN ROGINA: I know, but he is
24 not an attorney. So he is not allowed to give a

1 legal conclusion.
2 MR. MILLIGAN: Okay.
3 CHAIRMAN ROGINA: I know he is with
4 his lawyer, but the fact remains he is still
5 not --
6 MR. MILLIGAN: All right. I'll
7 withdraw the question.
8 BY MR. MILLIGAN:
9 Q **If someone came in and held me up at gunpoint and**
10 **then ran out with a bottle of whiskey, would I be**
11 **guilty of a violation?**
12 A I think you have other circumstances in that
13 situation.
14 Q **Right. What if a professional fullback charged**
15 **out the front door past my security with a bottle**
16 **of beer and runs down the street?**
17 A To the letter of the ordinance, the alcohol still
18 left the bar. There may be some mitigating
19 circumstances, but the alcohol still walked out
20 the door.
21 Q **Okay.**
22 CHAIRMAN ROGINA: If I may add,
23 Mr. Milligan, that's where I think you have a
24 chance to argue in your closing summary, as the

1 chief just indicated, mitigating circumstances.
2 I'd rather you stick to the facts at hand
3 in this particular case. Then we can debate the
4 mitigating circumstances in the closing argument.
5 MR. MILLIGAN: Okay. In that case, I
6 have no further questions. Unless you have
7 cross.
8 MR. O'NEIL: I'm in redirect.
9 REDIRECT EXAMINATION
10 BY MR. O'NEIL:
11 Q **There's no evidence that anyone walked in with a**
12 **gun and took a bottle of liquor by force, is**
13 **there?**
14 A Not to my knowledge, no.
15 Q **That would be an armed robbery, a Class X felony?**
16 A Yes.
17 Q **Further, there's no evidence that a fullback put**
18 **his head down and charged out the door with a**
19 **bottle of beer, is there?**
20 A Not in this instance, no.
21 MR. O'NEIL: I have no further
22 questions.
23 CHAIRMAN ROGINA: Anything else,
24 Mr. Milligan, of this witness before we let

1 you -- I believe this is his last witness.
2 MR. MILLIGAN: No, no more questions.
3 CHAIRMAN ROGINA: Thank you, Chief.
4 (Witness excused.)
5 MR. O'NEIL: The petitioner rests.
6 CHAIRMAN ROGINA: All right. At that
7 point, we'll move to the Respondent's side here,
8 and please call your first witness.
9 MR. MILLIGAN: I'd like to call
10 Officer Runkle.
11 CHAIRMAN ROGINA: All right.
12 Recall -- I think at this point, I will remind
13 you you're still under oath.
14 BRETT RUNKLE,
15 called as a witness by the Respondent, having been
16 previously duly sworn, was examined and testified as
17 follows:
18 DIRECT EXAMINATION
19 BY MR. MILLIGAN:
20 Q **Okay. I have the case report in my hand.**
21 **First of all, I'd like to thank you for**
22 **your service to the community. Like I said to**
23 **the chief, I think you're all professional**
24 **officers, and that includes you. You know, I**

1 **know you're just doing your job, and I appreciate**
2 **that.**
3 **Now, earlier you stated you were parked on**
4 **3rd Street facing south.**
5 **Were you parked on the east side or the**
6 **west side of the road?**
7 A It would be the west side.
8 **Q Yeah. Okay. So if a normal car were to park on**
9 **that, that's where you were parked, not opposed**
10 **to traffic; correct?**
11 A Correct.
12 **Q How long were you parked there?**
13 A I don't remember an exact time, sir. It's
14 bar-closing time. We're usually down by the bars
15 at bar closing because we have fights and all
16 kinds of other things.
17 **Q Okay. So it was -- no idea? Five minutes or an**
18 **hour? 10 minutes?**
19 A Not an hour.
20 **Q There was a group of subjects, rowdy subjects you**
21 **had stated.**
22 **Where were they?**
23 A Behind your place.
24 THE REPORTER: Behind what?

1 THE WITNESS: The Filling Station.
2 BY MR. MILLIGAN:
3 **Q Was that in the parking lot or --**
4 A Just right out the back door there.
5 **Q Okay. Out on Main Street?**
6 A No. Like the sidewalk area back there.
7 **Q On 3rd street. Okay. All right.**
8 **While you were parked there, did you see**
9 **anybody else walking down the street with**
10 **alcohol --**
11 A I didn't --
12 **Q -- while you were parked?**
13 A I didn't originally see anybody walk. I just saw
14 two subjects, the two subjects that came out from
15 the patio area, and they were by themselves at
16 the sidewalk, right alongside your building
17 there, and there was nobody else.
18 There was people by the Alibi and people
19 behind your place, but they were the only two
20 that walked north on the sidewalk.
21 **Q You know, they said that -- the subject said that**
22 **there were other people doing it, and I was**
23 **wondering if you had seen anyone else walking out**
24 **with alcohol.**

A I did not see your patio door. I saw them come around the corner from your place northbound.

Q Okay.

A They told me that several subjects, even one of their cousins had walked out and got in a cab prior to them doing it. So everybody was doing it, they said, so they did it.

Q But you didn't see anybody walking with alcohol anywhere?

A Not until I caught them.

Q Got you. Okay.

Yeah. So they said that they had -- they saw the people doing it, but when you catch people red handed committing a crime, do they tend to tell the truth, the whole truth, and nothing but the truth?

A Everybody lies to me.

Q Okay. You know, I was thinking -- well, let me phrase this in a question.

You've given speeding tickets before, pulled people over. They said I was just going with the traffic.

Have you ever heard that one? Going with the flow of traffic?

A Sure.
Q Okay. But you pulled them over to give them a ticket, so you know that's a lie; right?
A What was that?
Q If you're giving them a ticket, you know that they're lying because they were going faster than everybody else?
A Everything I do is based on the evidence.
Q Right. Okay. Did you think to ask them -- or let me rephrase that.
Did you ask them -- you know, if they said that other people were doing it, and they just walked out with them in their hand or, you know, they were doing it because everyone else was doing it or whatever, at least one of them stated -- you say that one of them stated that.
Did you think to ask him, well, how come you had it in your shirt or why were you rushing away from the employee or running away from me?
A Why didn't I ask them?
Q Well, did you ask them that?
A I asked them where the glasses came from, and they told me the Filling Station.
Q Right. Okay. Do you know if they crossed the

1 **street in front of your vehicle or behind your**
2 **vehicle?**
3 A Well, they walked north, and your employee came
4 out yelling after them, and they crossed over the
5 street about where Alibi is, but it would have
6 been after they had passed my vehicle.
7 Q **Okay. So they were walking down the sidewalk on**
8 **the west side of 3rd Street up until your**
9 **vehicle, and then at some point beyond you, they**
10 **crossed over?**
11 A Correct.
12 Q **You said that they were walking -- you saw them**
13 **walking right towards your vehicle; correct?**
14 A Correct.
15 Q **Facing you.**
16 A Yes.
17 Q **Right towards the front of your vehicle.**
18 A That's correct.
19 Q **And you didn't see any alcohol then?**
20 A No. I could see they were a little suspicious,
21 but I couldn't see what they were doing.
22 Q **Okay.**
23 A And then your employee came out right after
24 them, so.

1 Q **You got distracted by some other people?**
2 A Yeah.
3 Q **Okay. Did you perceive either of these people as**
4 **being intoxicated?**
5 A Intoxicated?
6 Q **Yeah.**
7 A I wouldn't say they were intoxicated, not like
8 the ones that I normally deal with.
9 Q **Okay. And the man in the blue shirt, did you**
10 **happen to question him?**
11 A He disappeared.
12 Q **You saw them acting -- or the first time you**
13 **suspected them of maybe hiding something was east**
14 **of 3rd street, north of Cedar Street, somewhere**
15 **over there by the parking lot, the 24-hour lot,**
16 **somewhere over there?**
17 A Correct. That's when it became apparent that
18 they were trying -- when I saw tell them doing
19 this. (Indicating.)
20 Q **Okay. And you said one of the gentlemen had a**
21 **drink under his shirt?**
22 A Yeah. It was in his front pants pocket with his
23 shirt over it.
24 Q **He said he walked out with it that way?**

1 A Correct.
2 Q **Okay. So you saw my employee, Lauren**
3 **Jankowski -- excuse me -- I've got to take a**
4 **drink.**
5 MR. MILLIGAN: If you don't mind,
6 just a quick sip of water.
7 CHAIRMAN ROGINA: No problem.
8 BY MR. MILLIGAN:
9 Q **So they walked by. You saw her running down the**
10 **street. You did a U-turn. You drove up. You**
11 **rolled down your window. What's going on?**
12 **She said, I have their phone.**
13 **And you said, I'll try to get them or**
14 **something to that effect?**
15 A I'll try to stop them for you.
16 Q **Okay. Good. Then you went around the corner,**
17 **and did you see either one of those people come**
18 **and get the phone from Ms. Jankowski?**
19 A Like I said, the guy with the blue shirt came
20 back and talked to her --
21 Q **Okay.**
22 A -- as I went and followed the female and the
23 other guy.
24 Q **You didn't see any alcohol on him, did you?**

1 A No.
2 MR. MILLIGAN: I have no further
3 questions at this time.
4 CHAIRMAN ROGINA: All right. Does
5 the Commission have any further questions for the
6 officer before we go to cross-examination?
7 MEMBER GEHM: None for me.
8 MEMBER PAYLEITNER: No.
9 MEMBER AMENTA: No, sir.
10 CHAIRMAN ROGINA: Cross.
11 MR. O'NEIL: Just briefly.
12 CROSS-EXAMINATION
13 BY MR. O'NEIL:
14 Q **Mr. Milligan was asking about whether people lie**
15 **to you, and they do; correct?**
16 A All the time.
17 Q **You have to determine whether they're lying or**
18 **not; is that correct?**
19 A Correct.
20 Q **But they told you they had gotten the drinks**
21 **inside the Filling Station and brought them out?**
22 A Yeah. They told me in that patio area. That's
23 where they were, and they left there, and they
24 told me the glasses were from there. That's why

1 we brought them back to Mr. Milligan.
2 Q **In fact, to confirm that they weren't lying, you**
3 **brought them back to Mr. Milligan, and he took**
4 **the glasses back as his own; is that correct?**
5 A Correct.
6 MR. O'NEIL: No further questions.
7 CHAIRMAN ROGINA: Any redirect?
8 MR. MILLIGAN: No.
9 CHAIRMAN ROGINA: Thank you, Officer.
10 We appreciate it. You can step back.
11 (Witness excused.)
12 CHAIRMAN ROGINA: Do you have another
13 witness to call, Mr. Milligan?
14 MR. MILLIGAN: Yes, I'd like to call
15 Ms. Jankowski.
16 CHAIRMAN ROGINA: Ms. Jankowski,
17 could you, please.
18 (Witness duly sworn.)
19 LAUREN JANKOWSKI,
20 called as a witness by the Respondent, having been
21 first duly sworn, was examined and testified as
22 follows:
23
24

1 DIRECT EXAMINATION
2 BY MR. MILLIGAN:
3 Q **What do you do at the Filling Station?**
4 A I am a waitress at the Filling Station.
5 Q **Okay. The night in question, what was your job**
6 **that night?**
7 A I was a cocktail --
8 THE REPORTER: I'm sorry?
9 THE WITNESS: I was a cocktail
10 waitress.
11 BY MR. MILLIGAN:
12 Q **You were working where primarily?**
13 A I was outside on the patio.
14 Q **All right. So later in the night -- well, at the**
15 **end of the night when we were winding things**
16 **down, I approached you in the beer garden and**
17 **spoke with you for at moment, did I not?**
18 A Yes, you did.
19 Q **At that time how many people were left in the**
20 **beer garden?**
21 A There were two groups, about five people.
22 Q **Okay. What did I say to you?**
23 A You had told me to make sure that nobody --
24 MR. O'NEIL: I'm going to object. If

1 Mr. Milligan wishes to testify -- this is
2 self-serving hearsay. If he wants to testify, he
3 can testify, so I have a chance to cross-examine
4 him.
5 MR. MILLIGAN: I'm asking a witness
6 what she heard me say --
7 MR. O'NEIL: Exactly.
8 MR. MILLIGAN: -- to her. You've got
9 to admit that.
10 CHAIRMAN ROGINA: Well, it's
11 informal. We'll allow her to testify, and you
12 will be able to cross-examine her.
13 MR. MILLIGAN: Thank you.
14 BY MR. MILLIGAN:
15 Q **Once again, what did I say to you?**
16 A You told me to make sure nobody leaves with
17 alcohol.
18 Q **Why? Because why? Do you know why?**
19 A Because it's illegal. People are drinking --
20 Q **Okay. What did I do after I said that to you?**
21 A You went inside.
22 Q **I went inside. Okay.**
23 **When did the first of those two parties**
24 **leave?**

A When you were standing right after -- we were still together. Right after you told me to make sure nobody leaves with alcohol, the first group finishes their drinks, heads to the door, throws their empty containers out in a garbage can next to the door and leaves.

Q Was that garbage can inside our property or on the sidewalk?

A Yes. It was inside.

Q Inside.

MEMBER LEWIS: Talk louder, please. Could she talk louder, please.

THE WITNESS: Sorry.

CHAIRMAN ROGINA: Repeat that last question, please.

BY MR. MILLIGAN:

Q Okay. The garbage can that they dropped their drinks into, was that inside the walls of the patio or was that a city --

A It was inside.

Q Inside.

CHAIRMAN ROGINA: You're referring in this case, Mr. Milligan, to the two arrestees?

MR. MILLIGAN: No.

1 THE WITNESS: No.
2 MR. MILLIGAN: One of the two
3 parties.
4 CHAIRMAN ROGINA: All right.
5 BY MR. MILLIGAN:
6 Q **So now we're left with one party; correct?**
7 A Correct.
8 Q **I walk inside.**
9 **Tell us what happened next.**
10 A Okay. I was having a conversation with the last
11 party that was there, and I proceeded to take an
12 umbrella down. I stepped up on a chair and was
13 taking the umbrella down. The group, as we were
14 having a conversation mid-sentence, leaves.
15 I stepped down off the chair and watched
16 them, you know, leave the restaurant. They did
17 not have visible any alcohol with them. They
18 weren't holding anything.
19 The bartender -- this all happens, and the
20 bartender comes outside and asked me if somebody
21 left their phone on the table, and obviously, I
22 took the phone and started chasing after them.
23 As I left the restaurant, I turned the
24 corner to go north on 3rd street. I was about

1 half a block away from the people that left, and,
2 you know, I started to go catch up to them. They
3 were kind of hurrying.
4 As I finally, you know, caught up to them,
5 the guy with the piercings on his face, he turned
6 around, and I'm like, Hey, here's your phone, and
7 again no visible alcohol.
8 So, I kind of -- I mean, that suspicion
9 that I had before that it was weird that they
10 just left like that, it was gone. I had not seen
11 alcohol on him, and then the officer was on the
12 scene, and I went back to the restaurant.
13 Q **Okay. So you were talking to these people, and**
14 **you get up on a chair to lower an umbrella, and**
15 **they hurry out the door; correct?**
16 A Correct.
17 Q **Did you see them walk out the door?**
18 A I did. I saw them walk out the doors. It was
19 weird that they just left like that. So I kind
20 of was suspicious of them in the first place.
21 Looking around, there were glasses on the
22 table that I hadn't bussed yet, and that's when
23 the bartender came out and she noticed the phone.
24 So I did have a legitimate reason to go up and

1 stop them because I did not know that -- I wasn't
2 sure if they did have alcohol with them, so. . .
3 Q **All right. Let me ask some more questions.**
4 CHAIRMAN ROGINA: If I may, when you
5 say "walk out a door," you're talking about
6 walking out the gate?
7 THE WITNESS: Yes. Yes.
8 CHAIRMAN ROGINA: Just so I'm clear.
9 We're outside walking out a gate, not a door.
10 THE WITNESS: Correct.
11 BY MR. MILLIGAN:
12 Q **So you're up on a chair. They walk out, and you**
13 **see them walk out.**
14 **Did you see them have alcohol?**
15 A No, I did not.
16 Q **Okay. So you said you were suspicious, that it**
17 **was weird that they went out like that; right?**
18 A Yes.
19 Q **Did you look to see them out on the street, if**
20 **they were carrying anything?**
21 A As I was trying to chase them down with their
22 phone, they did not have any alcohol with them
23 that I could see.
24 Q **You couldn't see them with any alcohol. Okay.**

1 When the guy returned the phone to you --
2 he turned back from the group and came back to
3 get the phone, did he have any alcohol?
4 A Not that I could see.
5 Q What did the officer ask you when he pulled up
6 next to you as you were chasing these people?
7 A He said something along the lines of what was
8 going on?
9 Then I told him that, you know, I had the
10 phone. You know, I was trying to give them the
11 phone back, and he proceeded to stop them.
12 Q All right. After he returned to the Filling
13 Station with the suspects and the drinks, why
14 didn't you say anything to them then? If you
15 thought that -- you know, if you were suspicious,
16 why didn't you say anything then?
17 A He didn't question me.
18 Q What did he ask you?
19 A He asked for my information, my name, phone
20 number.
21 Q So as far as you can recall, he asked you what
22 was going on out on the street and then he got
23 your information, and that was all that you
24 discussed with him?

1 A Yes.
2 MR. MILLIGAN: I have no further
3 questions.
4 CHAIRMAN ROGINA: Any questions
5 before we get to cross? Any questions by the
6 Commission?
7 MEMBER GEHM: None right now.
8 MEMBER PAYLEITNER: Yeah. I've got
9 one.
10 When you said the gentleman with the
11 piercings, was that who you referred to
12 previously as the gentleman with the blue shirt?
13 THE WITNESS: It was the gentleman
14 with the blue shirt.
15 MEMBER PAYLEITNER: I mean, there
16 was -- no description referred to the piercings,
17 just a blue shirt. So I'm guessing it's the same
18 guy.
19 THE WITNESS: From my memory, I
20 believe they were both wearing blue.
21 MEMBER PAYLEITNER: Okay. My second
22 question is: So your job -- from my
23 understanding from this line of questioning, your
24 job is to make sure nobody left with alcohol.

1 That was your charge, not fiddling with the
2 umbrella, but it was your charge to make sure
3 nobody leaves with alcohol; correct?
4 THE WITNESS: That is correct.
5 MEMBER PAYLEITNER: Okay.
6 CHAIRMAN ROGINA: Did you wait on the
7 individuals who walked out of the --
8 THE WITNESS: No, I did not.
9 CHAIRMAN ROGINA: You did not wait on
10 them personally.
11 THE WITNESS: No.
12 MEMBER AMENTA: How long did it take
13 from the time you started putting down the
14 umbrella until the time you noticed they left?
15 THE WITNESS: I just got off the
16 chair as soon as they -- as soon as I watched
17 them walk out.
18 MEMBER AMENTA: Approximately what
19 time was that? Do you know?
20 THE WITNESS: I do not recall.
21 MEMBER AMENTA: Okay.
22 THE WITNESS: 1:50, I would say.
23 MEMBER AMENTA: Okay. We keep
24 talking about walking behind the wall.

1 How tall is that wall at that point where
2 you were seeing them?
3 THE WITNESS: It's probably -- it's a
4 stone wall. It's probably about as high as this
5 table, and then there are black posts that
6 come up.
7 MEMBER AMENTA: Approximately 4 feet
8 or so?
9 THE WITNESS: Yeah.
10 MEMBER AMENTA: Okay.
11 CHAIRMAN ROGINA: Alderman Lewis.
12 MEMBER LEWIS: Was that your job all
13 evening to make sure no one left with alcohol
14 plus waitressing, or was there someone else who
15 sits at the door?
16 THE WITNESS: There should have been
17 somebody sitting at the door. There was nobody
18 that night, but my job description is
19 waitressing, but yes.
20 MEMBER LEWIS: You were asked to step
21 in and fill that role --
22 THE WITNESS: Yes.
23 MEMBER LEWIS: -- that evening.
24 All evening long that night? I mean at

1 8:00 o'clock, at 10:00 o'clock?
2 THE WITNESS: It would start at 9:45.
3 MEMBER LEWIS: So from 9:45 until
4 closing, you were responsible to make sure no one
5 left with alcohol?
6 THE WITNESS: Yes.
7 MEMBER LEWIS: Plus waitress.
8 THE WITNESS: Yes.
9 MEMBER LEWIS: Thank you.
10 CHAIRMAN ROGINA: Before we go to
11 cross-examination, you just -- I thought I heard
12 you say there should have been somebody at the
13 door.
14 THE WITNESS: Yes.
15 CHAIRMAN ROGINA: Thank you.
16 Cross.
17 MR. O'NEIL: Thank you, your Honor.
18 CROSS-EXAMINATION
19 BY MR. O'NEIL:
20 Q **That was going to be my first question.**
21 **Ma'am, how old are you?**
22 A I'm 21.
23 Q **By whom are you employed?**
24 A The Filling Station.

1 Q How long have you worked there?
2 A I have worked there for approximately 3 1/2
3 months.
4 Q Okay. And Mr. Milligan is your boss; right?
5 A Yes, sir.
6 Q Did you have occasion to talk about your
7 testimony here today with Mr. Milligan before
8 coming in here?
9 A For a little bit, yes.
10 Q Have you gone over -- did you remember
11 independently what he had said to you, or did he
12 say don't you remember me saying that to you?
13 A No. I do remember.
14 Q But there should have been someone sitting at the
15 door that night?
16 A Yes, sir.
17 Q August 16th was a Friday night?
18 A I'm not sure.
19 Q If you're not sure -- okay.
20 Let me ask you this way: In your
21 experience, ma'am, working Friday nights on a
22 nice summer night --
23 MR. MILLIGAN: I object. It was a
24 Thursday night.

1 A I do believe it was a Thursday night.
2 BY MR. O'NEIL:
3 **Q Okay. That's fine.**
4 **What was the crowd like that night?**
5 CHAIRMAN ROGINA: Will you stipulate
6 that it was a Thursday night? We need to get a
7 calendar out.
8 August 16th, let's stipulate for the record
9 what it is.
10 MR. MILLIGAN: Yeah. The incident
11 happened after midnight, so that's not the same
12 thing.
13 MR. O'NEIL: You're right. You're
14 right.
15 CHAIRMAN ROGINA: All right.
16 MR. O'NEIL: 2:03 in the morning on
17 August 16th, which is a Friday. That's correct.
18 CHAIRMAN ROGINA: Thursday moving
19 into Friday.
20 MR. O'NEIL: I'll withdraw that
21 question.
22 BY MR. O'NEIL:
23 **Q Now, Mr. Milligan told you to make sure no one**
24 **leaves with alcohol; correct?**

A Yes, sir.
Q All right. There were two groups of people?
A Yes.
Q Were there five people in each group or a total of five people between the two groups?
A From what I remember, there were three ladies before -- in one group, and then there was the couple.
Q Okay. Now, the three ladies, you saw them walk out the door?
A Yes, sir.
Q They deposited their containers in the garbage can?
A Yes.
Q Was that glass or plastic or what was it?
A I believe it was beer bottles.
Q Then you went -- and the testimony describes that the gate is about 10 -- less than 10 feet away from the corner of Main Street and 3rd.
Does that sound right?
A Yeah, it is. That sounds right.
Q You went to start taking down an umbrella; is that correct?
A Yes.

Q After you take down the umbrellas -- how tall are you?
A I'm about 5-1.
Q You have to stand on a chair to reach to crank them down?
A Yes.
Q All right. How many umbrellas were there to take down?
A All of them -- I did a few of them. I think there were only a handful left.
Q So prior to you starting on the first umbrella, taking the first umbrella down, the two other people still had their drinks in their hand; is that correct?
A Yes.
Q Then is it fair to say you stepped on a chair much the same height as this?
A That looks about right.
Q Okay. What is the chair? Is it wrought iron? What's the chair made of?
A Plastic.
Q Plastic.
A Yes.
Q So it's not necessarily a heavy item like this.

1 It may slide because it's light plastic?
2 A Yes.
3 Q Did you put your hand down before you got up on
4 the chair to steady it?
5 A Most likely.
6 Q Okay. Then did you bring up two feet like this?
7 A Yes.
8 Q Then you reached up to crank on the umbrella; is
9 that correct?
10 A It's a hose --
11 Q Okay. You pull out the little counter pin?
12 A Yes.
13 Q All right. So while you're doing that, you're
14 getting up, and all the time you're watching
15 these people to make sure they don't walk out
16 with drinks in their hands; is that right? Is
17 that what you're saying?
18 A I took my eye off them for maybe 10 seconds.
19 Q And similarly when you saw them walk around the
20 wall -- I think you earlier described it as about
21 as high as this podium, and I'm going to say
22 that's about 40 inches; is that about right?
23 A That's probably correct. I did see them walk out
24 the gate.

1 Q So while you were turned, took your eyes off them
2 for a second, they easily could have stuck them
3 under their shirts and walked out the door; is
4 that correct?
5 A That may be possible.
6 Q Is that also similar -- you heard Officer Runkle
7 testify before, didn't you?
8 A Yes, sir.
9 Q You heard him testify before that as they walked
10 by his squad, he saw no evidence of alcohol; is
11 that correct?
12 A That is correct.
13 Q You also heard him testify that later on in the
14 parking lot, he saw the female with one in each
15 hand; is that what he said?
16 A That is what he said.
17 Q Is it logical to you, ma'am, that based upon what
18 you saw, you're turning away, that they stopped,
19 concealed them under their shirts, walked out,
20 walked past the squad car, and as soon as they
21 got past the squad car, cut across the street
22 from Alibi, and that's when they pulled them out?
23 A It is possible.
24 MR. O'NEIL: Okay. I have no further

1 questions.
2 CHAIRMAN ROGINA: Redirect.
3 MR. MILLIGAN: Yes.
4 REDIRECT EXAMINATION
5 BY MR. MILLIGAN:
6 Q **First off, are you in charge of deciding where**
7 **people should be standing down at the Filling**
8 **Station?**
9 A No.
10 Q **Who was working that night besides you?**
11 A I believe there was only me.
12 Q **Okay. Were there any other employees at all**
13 **working that night?**
14 A Besides the bar -- bartenders, no.
15 Q **Was I there?**
16 A Yes.
17 Q **What was I doing?**
18 A You were making sure everything was all set for
19 closing.
20 Q **Thank you. Okay. I was there.**
21 **Was I on the floor? Was I visible?**
22 A Yes, you were.
23 MR. MILLIGAN: I have no further
24 questions.

1 CHAIRMAN ROGINA: All right.
2 Anything else, Counsel?
3 MR. O'NEIL: No redirect.
4 CHAIRMAN ROGINA: Thank you. You may
5 step back.
6 Yes.
7 THE REPORTER: Could you spell your
8 name, please.
9 THE WITNESS: Sure. It's L-a-u-r-e-n
10 and Jankowski, J-a-n-k-o-w-s-k-i.
11 CHAIRMAN ROGINA: Thank you.
12 (Witness excused.)
13 CHAIRMAN ROGINA: Anything further,
14 Mr. Milligan?
15 MR. MILLIGAN: Yeah. I'd like to
16 call myself.
17 CHAIRMAN ROGINA: Well, I'll tell you
18 what. It seems to me, this being informal, I
19 think we'll allow that as part of your summary.
20 In your summary, feel free to say what you need
21 to say regarding -- testify if you must.
22 MR. MILLIGAN: Okay.
23 CHAIRMAN ROGINA: Give us a summary
24 complete with what you have to say.

1 MR. MILLIGAN: Okay.
2 CHAIRMAN ROGINA: I think that would
3 be the most efficient and expedient way to do
4 this.
5 MR. MILLIGAN: Sounds good.
6 CHAIRMAN ROGINA: Thank you.
7 With that, I think we'll hear the closing
8 argument by counsel.
9 MR. O'NEIL: Thank you, your Honor.
10 CLOSING STATEMENT
11 BY MR. O'NEIL:
12 Ladies and gentlemen, it's going to be
13 brief. This is not a criminal case. This is an
14 administrative case. The burden of proof on the
15 chief is by a preponderance of the evidence.
16 What we have here is uncontroverted facts.
17 We have uncontroverted facts that -- I was
18 corrected it was a Thursday night. The arrest
19 actually happened on a Friday morning. Okay. At
20 that time a female white named -- again, I'll
21 have to look back -- Adriana Guthrie was caught
22 by the Breadsmith with two glasses with liquid in
23 them that smelled like alcohol that also
24 contained ice. The male white, whose name was

1 Dennis Lange, Jr., had a glass-like bottle under
2 his shirt and produced it upon command of Officer
3 Runkle.
4 Officer Runkle said he saw them turn the
5 corner at 2:03 when he called it in. As he
6 walked by the squad car, Upon Mr. Milligan's
7 questions of him, I saw no traces of alcohol.
8 Now, Ms. Jankowski here just says, well, I
9 turned because I had to get up and pull down the
10 umbrellas. I just lost sight of them for a
11 second. Well, the second is easily enough time
12 to stuff them under their shirts, walk out the
13 gate, walk around the corner. They see Officer
14 Runkle. They're certainly not going to pull them
15 out from under their shirts with Officer Runkle
16 sitting there. They wait to get by him.
17 Officer Runkle turns around because
18 Ms. Jankowski comes out. They see him, and they
19 start walking faster and faster. They stick
20 behind cars. Ultimately, they're caught with
21 three glasses filled with liquid still with ice
22 in them on a warm, humid night.
23 What's the key piece of evidence in this
24 case? This is where it's beyond a reasonable

1 doubt. Mr. Milligan takes the glasses back
2 as his.
3 That's all I have.
4 CHAIRMAN ROGINA: Mr. Milligan, your
5 response to that, and as I said before, feel free
6 to testify if you must.
7 MR. MILLIGAN: Okay.
8 CLOSING STATEMENT
9 BY MR. MILLIGAN:
10 My name is Peter Milligan. I'm one of the
11 owners of the Filling Station.
12 First off, I don't dispute that they walked
13 out with that alcohol. I'm not disputing that.
14 CHAIRMAN ROGINA: So we can say that
15 it's stipulated that the individuals in question
16 walked out of your establishment with the
17 alcohol?
18 MR. MILLIGAN: Yes, they did.
19 CHAIRMAN ROGINA: All right.
20 MR. MILLIGAN: As far as who was
21 watching things that night, that would have been
22 me. I normally have someone who does that,
23 that's their job, but he called in sick that
24 night. So I was doing it, and I was doing it. I

1 was sober, alert, and diligently doing my job,
2 keeping order down there, making sure all the
3 rules are followed, there's no violations.
4 That's what I was doing there.
5 I wasn't at the gate. I was -- for most of
6 the night I have to position myself somewhere
7 where I can keep an eye on both the front door
8 and the back gate, so I can make sure that -- I
9 card people as they come in and make sure that
10 they don't leave with alcohol.
11 Now, as we were closing down, I did talk
12 to -- how I do it is at 1:40, we turn on the
13 lights, we shut off the music, we stop serving,
14 and I go around, and I start talking to people
15 and letting them know. I don't yell. I just
16 talk to them like I'm talking to a normal person.
17 I say, Folks, we're closing up. It's time to
18 finish your drinks and leave pretty soon.
19 I'll come back around and say it again, and
20 if I have to do it a third time, then it's time
21 to go, and I'm very cognizant, hyperaware of what
22 time it is because I don't want -- I don't want
23 anybody in there after 2:00 o'clock. I don't
24 want that violation. I've got my phone on me at

1 all times. It's like an atomic time on it, and
2 so I know what time it is.
3 I don't specifically remember telling that
4 particular party, but I know that I did because
5 that's what I do. I go and I talk to everybody,
6 and furthermore, I had talked -- the group of two
7 ladies that were standing right next to them, I
8 said it from across the beer garden, You ladies
9 know you can't leave with those drinks; right?
10 Then when I went to talk to Lauren, and I
11 said to her, Make sure no one -- I have to go
12 inside, make sure no one leaves with alcohol.
13 While I was saying that, they took the last
14 sip of their drink, dropped it in the garbage,
15 and walked out. So when I went in, there was
16 just that one party left.
17 The reason I went in is because I have to
18 make sure that the building is empty, no one is
19 in the bathrooms. I lock the front door to make
20 sure no one comes in after 2:00; and also just
21 for general security, I like to start buttoning
22 up the joint as quickly as possible because I
23 don't want to get robbed.
24 So anyway I was inside. I see Lauren

1 running down the street, and I was getting ready
2 to break for the door to find out what she was
3 chasing, and my bartender told me that she was
4 chasing somebody down for a phone because the
5 bartender was the one that spotted it. So she
6 knew what that was all about.
7 As far as my testimony, that's all, but I
8 want to go ahead and do my closing argument right
9 now, if that's cool. I'm just going to
10 transition to that.
11 So what we have here is -- like I said
12 before, the part with the shoplifting. According
13 to this national organization for shoplifting, 1
14 in 49 shoplifters is caught. Why is that?
15 That's because when someone stashes something in
16 their bag or in their shirt or down their pants,
17 you can't stop that.
18 I mean, the chief said I can do whatever I
19 have to do, but the truth is I can't. You can't
20 detain somebody or pat them down. That's just
21 not reasonable. That's no way to do business,
22 and I doubt it's legal.
23 But if someone stashes something, it's very
24 difficult. You can try -- you know, I could

1 have, you know, had someone at both doors, but
2 it's a Thursday night. It's a slow night for us,
3 and, you know, I have to make certain economic
4 decisions as well.
5 I always have someone there. The last time
6 I didn't have someone there was last winter,
7 okay, but I fulfilled that role. I'm fully
8 capable of doing it.
9 So we've got some people stashing drinks in
10 their -- who knows where they were hiding it,
11 which one of them had it under his shirt. As the
12 prosecutor said, maybe they had theirs stashed
13 somewhere else, but they walked right past a
14 police officer who is looking straight at them.
15 Let's assume he's trained to look at people's
16 hands. He didn't see anything.
17 You know, he turned -- the only reason he
18 turned around is because I had an employee
19 chasing them down the street. They hurried out
20 the gate. She is trying to catch them running
21 down the street, and, you know, they're picking
22 up steam and running away.
23 When he did finally catch them -- by the
24 way, that's, you know, like a block, almost two

1 blocks north, half a block east. I'm not
2 disputing the fact that they walked out with
3 them; but as a business person, I can only -- you
4 know, you can't -- if someone stashes something,
5 you know, it's just not -- you can't search
6 everyone. It's not reasonable.
7 In this particular instance, like when I
8 was just talking to the chief, there are certain
9 circumstances where something can happen, but
10 that doesn't mean that I am necessarily in
11 violation. If the fullback charges out the door,
12 I can't stop that. Yes. It's immediately a
13 violation, but is it reasonable and prudent to
14 fine me for that?
15 If someone stashes something on their
16 person and rushes out the door and my employee is
17 chasing him down the street, is it reasonable for
18 me to get fined for that? I don't think so, and
19 that's why I think you should find me not guilty.
20 Thank you.
21 Do you have any questions?
22 CHAIRMAN ROGINA: Anybody have any
23 questions?
24 MEMBER LEWIS: I have a question.

1 CHAIRMAN ROGINA: Please.
2 MEMBER LEWIS: Are either you or your
3 server Lauren Basset trained?
4 MR. MILLIGAN: Yes, she is.
5 MEMBER LEWIS: And you?
6 MR. MILLIGAN: Not currently. I have
7 been, and I have been doing this for 26 years.
8 MEMBER LEWIS: But you're not
9 currently Basset trained?
10 MR. MILLIGAN: That is correct. It
11 expired.
12 CHAIRMAN ROGINA: All right. At this
13 point, I would entertain a motion to move into
14 executive session.
15 MR. O'NEIL: Your Honor, may I make a
16 brief rebuttal because I have the burden of
17 proof?
18 CHAIRMAN ROGINA: All right. Fair
19 enough.
20 MR. O'NEIL: Very, very briefly.
21 CLOSING STATEMENT
22 BY MR. O'NEIL:
23 I'm glad to hear Mr. Milligan say twice,
24 quote, "I don't dispute that they walked out with

1 the alcohol." We could have saved the hearing,
2 and he could have come in and given his
3 mitigation at that time.
4 He asked what is reasonable and prudent and
5 asked you to find him not guilty. Well, he has
6 already admitted he is in violation. The
7 reasonable and prudent thing is to serve your
8 drinks in plastic cups. They're not so likely to
9 be stuck in pockets and down pants because when
10 you try to do that, they'll spill over
11 themselves. That's it.
12 CHAIRMAN ROGINA: All right.
13 Anything else?
14 MR. MILLIGAN: Yeah. Whether it's
15 glass or plastic, that's irrelevant. Okay.
16 According to him, you know, just -- I have
17 nothing further. Just remember --
18 CHAIRMAN ROGINA: Would you concede
19 that the glasses that were returned to you were
20 your glasses?
21 MR. MILLIGAN: Yes.
22 CHAIRMAN ROGINA: Thank you.
23 I would entertain a motion to move to
24 executive session.

1 MEMBER PAYLEITNER: So moved.
2 MEMBER GEHM: Second.
3 CHAIRMAN ROGINA: Moved and seconded.
4 All in favor, say aye.
5 (Ayes heard.)
6 CHAIRMAN ROGINA: Opposed.
7 (No response.)
8 CHAIRMAN ROGINA: Thank you.
9 PROCEEDINGS CONCLUDED AT 5:37 P.M.
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1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF K A N E)
3
4 I, JOANNE E. ELY, Certified Shorthand
5 Reporter No. 84-4169, CSR, RPR, and a Notary
6 Public in and for the County of Kane, State of
7 Illinois, do hereby certify that I reported in
8 shorthand the proceedings had in the
9 above-entitled matter and that the foregoing is a
10 true, correct, and complete transcript of my
11 shorthand notes so taken as aforesaid.
12 IN TESTIMONY WHEREOF I have hereunto set my
13 hand and affixed my Notarial Seal this 28th day
14 of October, 2013.
15
16
17 Certified Shorthand Reporter
Registered Professional Reporter
18
19
20
21 My commission expires
May 16, 2016
22
23
24

OFFICIAL SEAL
JOANNE E ELY
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:05/16/16