

LICENSE APPEAL COMMISSION  
CITY OF CHICAGO

Bottled Blonde Chicago, LLC )  
Licensee/Revocation and Suspension )  
for the premises located at )  
504 North Wells Street ) Case No. 18 LA 8  
)  
v. )  
)  
Department of Business Affairs and Consumer Protection )  
Local Liquor Control Commission )  
Shannon Trotter, Commissioner )

**DECISION OF CHAIRMAN FLEMING**

**NATURE OF THE CASE**

The Licensee received a Third Amended Notice of Hearing that pursuant to 235 ILCS 5/7-5 and Title 4, Chapter 4, Section 280 of the Municipal Code of Chicago, that a hearing was to be held in connection with disciplinary proceedings regarding the City of Chicago licenses issued to Bottled Blonde Chicago, LLC for the premises located at 504 N. Wells Street. The notice listed the date, time and location of the hearing as Tuesday, May 8, 2018 at 9:30 a.m. in Room 805 of City Hall, 121 N. La Salle Street, Chicago, IL. The notice listed fifty-one (51) separate charges alleging violations of the Municipal Code of Chicago. The specific sections of the Municipal Code alleged to have been violated were:

- 4-4-084
- 4-60-040 (h)
- 4-4-280
- 2-25-110
- 4-60-020(a)

- 4-60-010

It also alleged violations of 235 ILCS 5/6-10 and violations of its Liquor License Plan of Operation and Revised Plan of Operation.

A copy of the Third Amended Notice of Hearing is attached to this decision as Addendum A. Testimony on these charges was taken on several dates before Hearing Commissioner, Khaled J. Elkhatib. The Licensee was represented by Jeannie Gallucci and Paul Tanzillo and the City was represented by Assistant Corporation Counsel, David E.B. Smith.

Prior to a determination on the merits, the City of Chicago withdrew Count 1, Counts 16-18, Count 21, Counts 27-30, and Counts 32-39. The Hearing Commissioner found that the City did not meet its burden of proof on Counts 24 and 26.

The Hearing Commissioner did find the City of Chicago met its burden of proof on the remaining charges. With respect to Charges 2-15, 19, 20, 22, 23, 25, 31 and 40-43, a 30-day Suspension was imposed, and with respect to Charges 44-51, an Order of Revocation was entered effective November 20, 2018. A copy of the Findings of Fact from the Hearing Commissioner is attached to this decision as Addendum B.

The Licensee filed a timely appeal with the License Appeal Commission.

## **SUMMARY OF THE PROCEEDINGS**

The trial transcript of this hearing is extensive and often times repetitive. A summary of the proceedings will be helpful for a reader to understand the reasons for this decision, but this is only a summary. It is not intended to be a verbatim statement of the evidence presented in this case.

Barbara Gressel has been employed by the Department of Business Affairs and Consumer Protection since 2009 and is currently Deputy Commissioner for the Prosecution and Adjudication Division. This division prosecutes violations of city ordinances primarily at the Department of Administrative Hearings. It also reviews reports of complaints to determine whether to process a case for license discipline with the Mayor's License Discipline Commission. That body adjudicates cases that the department merits more than a fine and deserve a license suspension or license revocation. Suspensions or revocations of a license are not possible outcomes at the Department of Administrative Hearings.

In her position, she and her staff review cases for potential license discipline as well as cases that might be resolved by remediation conference pursuant to Section 4-4 of the Chicago Municipal Code. In those cases, meetings are held with the licensee, the police, the alderman's office, and community members to address the complaints and suggest steps a business could take to ameliorate nuisance conditions.

She is familiar with a license called Bottled Blonde through her job duties. In the fall of 2015, she started receiving phone calls and emails from neighbors living in the proximity of the

business. She is aware that Bottled Blonde was subject to a liquor license plan of operation and she identified City's Exhibit 6, in evidence, as the Plan of Operation for Bottled Blonde entered into prior to the issuance of licenses to Bottled Blonde in 2015. The witness identified City's Exhibit 7, in evidence, as a Revised Liquor License Plan of Operation entered into in 2016. She was given this exhibit by Maria Guerra Lapacek, who was then the Commissioner of the Department of Business Affairs and Consumer Protection, who signed the Plan of Operation. She had it scanned and posted it on the City's website.

Ms. Gressel testified the original Plan of Operation was signed by Gregory Steadman, who was the Local Liquor Control Commissioner, on October 20, 2015. As of September 29, 2016, the date the revised plan was signed, Mr. Steadman had retired from the City and was no longer in that office. Mr. Steadman had been appointed by Mayor Daley to his position as Local Liquor Control Commissioner, but as of September 29, 2016, the Mayor had not named a separate local liquor control commissioner. Maria Guerra Lapacek was the Commissioner of the Department of Business Affairs and Consumer Protection on September 29, 2016. She signed the Revised Plan of Operation pursuant to Chapter 2-25 of the Municipal Code which names the Commissioner of Business Affairs and Consumer Protection to also act as the Local Liquor Control Commissioner unless a separate local liquor control commissioner was named by the mayor. Subsequently, Shannon Trotter was named the Local Liquor Control Commissioner in the spring of 2017 and is still in that position. Currently, Rosa Escareno is the Commissioner of the Department of Business Affairs and Consumer Protection. Shannon Trotter has not been involved in this case since she recused herself due to involvement with a prior case involving Bottled Blonde.



Moving up to February 2018, Ms. Gressel had information that caused her to believe Bottled Blonde was not operating in compliance with their Plan of Operation. From the time the Revised Plan of Operation was signed, she continued to receive emails and phone calls from neighbors complaining about the same types of problems previously addressed. These emails, phone calls, videos, and police reports led her to forward a case to the Law Department to see if it would file another license case. She was aware of a prior disciplinary case involving this Licensee in which there had been a finding that Bottled Blonde had operated where the sale of alcoholic beverages was the primary business activity in violation of the Plan of Operation. These factors led her to believe in early 2018, that Bottle Blonde would still be operating in violation of the Plan of Operation and/or Revised Plan of Operation. She then forwarded documentary evidence to the Law Department for possible license discipline.

Ms. Gressel identified City's Exhibit 12 as an Order to Produce Books and Records signed by Commissioner Rosa Escareno and issued to Bottled Blonde. She signed the notice of mailing and mailed the notice to the managing member of Bottled Blonde and to the registered agent for Bottled Blonde. The Order to Produce listed the records requested and set a date for compliance of March 12, 2018. The records were not produced by Bottled Blonde by March 12, 2018. Ms. Gressel did receive a phone call or email from Bottled Blonde's attorney concerning the sensitive nature of the request but an extension for the date for production of the documents was not authorized. At no point was production by March 12, 2018, excused.

Ms. Gressel identified City's Exhibit 13, as a letter mailed or emailed to her on March 26, 2018, from the attorneys for Bottled Blonde. It stated, "we are willing to provide said documents,

conditioned on an agreement they be kept confidential.” Documents were not produced by Bottled Blonde on or about March 26, 2018, and she did not respond to this letter. The Department of Business Affairs and Consumer Protection never excused Bottled Blonde’s failure to produce the documents or agree to production premised on production being confidential.

City’s Exhibit 14 was described by Ms. Gressel as a letter from the attorneys for Bottled Blonde dated May 23, 2018, enclosing electronic records on the condition the City would notify Bottled Blonde if a third-party requested disclosure of these records. The May 23, 2018 delivery of documents was the first compliance with the Order to Produce Books and Records. Ms. Gressel did not agree to the condition set out in that exhibit because she did not have the authority to agree to the condition. Her position is that the production on May 23, 2018, does not comply with the Order to Produce Books and Records by March 12, 2018. She had not had the opportunity to review 1500 to 2000 pages of documents produced to determine if that production was complete. The department did not have the time to review these documents to determine if they proved the charges and this late production interfered with the Commission’s ability to enforce the relevant license ordinances. The late disclosure essentially allowed Bottled Blonde to operate in violation of the Plan of Operation for an additional two months and an additional two months of deleterious impact on the community.

On cross-examination, Ms. Gressel stated the department had the authority to issue the Order to Produce based on the Illinois Statute, the Municipal Code and the Plan of Operation. She and her staff do not normally deal with liquor license holders and generally send out orders to produce to non-liquor licensees. She sent this order out under her signature because Shannon had recused

herself from any dealings with this business. Since this Order to Produce was sent on February 15, 2018, she has not sent out any other such orders to liquor licensees. This was the first and only time she sent such a request to a liquor licensee.

Ms. Gressel explained she compiled documentary evidence in the form of emails, videos, ANOVs, and police reports that were then forwarded to the Department of Law for it to determine if there was sufficient evidence for a license discipline case. She does not know when this evidence would have been sent to the Department of Law and she would not have received a response from the Department of Law. To the best of her knowledge, the Order to Produce was drafted a day or two before it was mailed. Ms. Gressel agreed the order referenced only the Revised Plan of Operation. She is not aware of any city ordinance or state statute that defines what records are for purposes of this order. She is not aware of the language of 235 ILCS 5/6-10 with respect to books and records.

Ms. Gressel was shown Licensee Exhibit 1, which is the section of the state statute referenced in the Order to Produce. She agreed the statute states books and records shall be maintained for a period of 90 days. She explained the City's Order to Produce Books and Records for twelve months and for the 2015 and 2016 State and Federal Tax sections is based on a general requirement that books and records need to be produced. The order clearly describes the books and records the department was seeking. The state statute was referenced in the Order to Produce because it, as well as the Municipal Code and the Revised Plan of Operation, impose separate requirements on a licensee to produce documents.

Ms. Gressel explained she felt the March 26, 2018 letter from Tanzillo Gallucci was a request to review documents at its place of business and not a request to send the records electronically. The offer was to produce books and records at their office on March 13, 2018, and this was a follow-up to a phone conversation on March 12, 2018, the date the records were due. Ms. Gallucci expressed concern that producing the requested records would place her client at a competitive disadvantage. She told Ms. Gallucci the records were due on March 12, 2018.

Licensee Exhibit 2 was identified by the witness as a series of emails between David Smith and Ms. Gallucci on March 13 and 14, 2018. The March 14, 2018 email is from Mr. Smith to Ms. Gallucci responding to her email. Mr. Smith referenced the Liquor Control Act, the Municipal Code, the Revised Plan of Operation, and the Order to Produce Books and Records. It further states the Licensee's records were to be provided by March 12, and that making records available for an on-premise inspection is not sufficient. Ms. Gressel explained that would not allow for sufficient examination and that to her knowledge, no records have ever been produced on the licensee's premises.

Ms. Gallucci had raised the issue of confidential information in their March 12, 2018 conversation. They discussed the Freedom of Information Act and Ms. Gressel explained every department is subject to FOIA. She did not recall the City giving Bottled Blonde assurances it would receive notice from the City if a FOIA request was made for Bottled Blonde's records. Ms. Gressel was not aware of any ordinance that would prohibit some sort of confidentiality with respect to books and records produced. There was no ordinance prohibiting on-premise

inspections. Mr. Steadman did not designate anyone as Liquor Commissioner before he left his position and he did not have the authority to do so.

The witness again testified the department had received numerous complaints that the business was operating as a tavern, that the patrons were unruly and disturbing the peace. There was significant noise late at night with patrons fighting, vomiting, urinating and defecating in the areas of the residential garages. There were multiple complaints weekend after weekend. The complaints would have been forwarded to the Law Department.

On redirect, Ms. Gressel asserted that the production of the requested records was late on March 12 and 13 and that production had not been excused while discussions on confidentiality were pending. No proposed confidentiality agreement was ever produced, and the City never agreed to a confidentiality agreement. No proposal for submitting documents under seal was ever provided to the City and the City never agreed to the production of records under seal.

On recross, Ms. Gressel stated she did not understand what the sensitive nature of certain records was, but the fact is that they did not receive records until the eve of trial. There were two offers to provide some books and records at the Licensee's location and that was not complying with the Order to Produce. In her opinion, Bottled Blonde was uncooperative, and that uncooperativeness stymied the Commissioner's investigation. There were three offers to cooperate on March 12, 13, and March 26.

David Shiba currently lives at 4145 North Oakley Ave., Chicago, but lived at 201 West Grand Avenue for fourteen and a half years prior to June 2018. He served on the Contemporaine Condo Association Board for over a decade and was the president or treasurer of the board since 2011. There are 28 units in the building and it is located at the corner of Grand and Wells.

His interaction with Bottled Blonde began in August 2015. Bottled Blonde is adjacent to and south of his condo building. His condo was on the 9<sup>th</sup> floor and he could see and hear Bottled Blonde from his unit. Going back to late 2017/early 2018, he provided videos to City of Chicago Attorney, Rachel Berger. He gave her 24 videos connected with Bottled Blonde. Some of these videos were taken with a hand-held camera and some were taken with his iPhone 7 cell phone. He has taken thousands of videos with his iPhone and, in his experience, it accurately records audio and visual. He cannot recollect any situation where the iPhone recorded something, not in the scene he was recording. The videos taken with his iPhone were fair and accurate representations of the scenes he saw as he recorded.

All of the 24 videos he originally provided to Rachel Berger were edited and he then later provided unedited versions of the raw video from which he did the editing. Professionally he has done editing hundreds of times for real estate matters. With respect to handheld videos he provided to the City, he would download the raw videos from his iPhone to his computer and there he would rename the files. When he had time, he would load the clips into his editor and put the clips together in a way that accurately and fairly reflected what he saw with his iPhone. Raw video has a fair amount of extraneous non-informative information that he would edit to make the edited clip as brief as possible while maintaining the integrity of the event he saw. At

times, he would add circles or arrows to call attention to a particular person. He also might have enlarged the visible focus of a person or clothing. He would not rearrange clips to show a different time sequence. He did not create any imagery that did not exist in reality.

There were other sources of video that he provided to the City. His building, the Contemporaine, had security cameras recording video. There is a video camera above the garage door that shoots out past the garage ramp to the alley off Grand Avenue. There was a second camera located at the northwest corner of the building showing the garage ramp. A third camera was on the northeast corner of the building and faced down Wells Street from north to south. This camera was about 25 to 100 feet from Bottled Blonde. There is a vestibule camera looking onto Grand Avenue. He also placed a deer camera in a tree facing the loading dock garage on Wells Street and one more camera on the Binny's gate pointing at his garage ramp. Deer cameras are used by hunters to view deer and they are motion sensitive.

He provided the City with videos from the deer cameras by removing the memory card from the deer camera and downloading the clip into his computer. He has used deer cameras in the field looking for actual deer and, in his experience, the locations shown in the camera were recognizable and he never had occasion to believe any of the cameras were not functioning. Deer cameras have the ability to film in low light because deer are often out at night.

During the time of reference, there were two recording systems for the cameras attached to the building. One was located in the basement and one was cloud-based. Both functioned 24/7. He had access to the recordings on both the DVR in the basement and the cloud-based DVR. Board

members had access to the systems. Both required user names and password to access them. He accessed the basement-based DVR well over 1000 times and the cloud-based system several hundred times. He accessed these video systems to locate an incident he had identified or had been told of to confirm the incident. The videos accurately depict the locations shown in the video. Both DVR systems have time stamps visible with a time-stamp and date. The cameras are not all synchronized to the same clock, but the difference would be a matter of seconds. The deer cameras could be different up to a minute or two.

He would scan the web footage from either of the DVR's and once a relevant segment was identified he would use a screen capture program on his Macintosh to capture the video segment playing in the browser. This software is very accurate capturing software and the videos captured from his computer screen using ScreenFlow Software are fair and accurate copies of what is on the computer screen.

He used this process to capture the videos he produced to the City with the exception of the handhelds and the deer camera. The deer camera videos were captured by downloading the segment he wanted from the card and renaming the file.

The iPhone capture process would download the files from his iPhone to his computer and rename the downloaded files.

There were three sources of video used to produce the edited videos. They were the iPhone, deer cameras, and screen captures from the DVR systems. He selected the portion he believed showed



an accurate and fair representation of the act he was trying to highlight for the City. If there were multiple angles of an event, he would take the relevant portions and put them together to show the sequence of events. It was his intention to remove irrelevant portions of the video. He never combined video from different dates and never edited to create a false or inaccurate impression. He would then use Adobe Software to combine the clips and create the final video.

He did markings to the edit videos of the DVR recordings. There would be a red circle, an arrow or a halo around a person to highlight the person he wanted to put attention on. This would be a highlight to the original video. He would, on occasion, use Adobe to zoom in or magnify specific areas of the original video. He would combine views of the same incident from different cameras. He decided this was the same continued action based on the appearance of individuals through clothing or physical appearance. He never created imagery or fabricate any imagery.

He originally provided the 24 videos to the City earlier in 2018 and then provided the same videos from the DVR cameras, the iPhone videos, and the deer cameras. He named both the video clips and the source clips by date, time and a description of the event. He personally witnessed the events from his iPhone camera but did not personally observe the videos from the DVR systems and the deer cameras. He would have looked at those videos based on an owner reporting an incident at an approximate time or he could have reviewed an entire evening based on finding vomit or urine by his building. He did not do anything with the video if he could not find an incident on the video. He sometimes found other incidents through just reviewing the video.

City's Exhibit 18, for identification, was identified by the City's attorney as a DVD containing the 24 edited files the witness sent to Rachel Berger from the City. These files show what Mr. Shiba described as the following:

- An alleged live violation personally witnessed and captured on his iPhone at 12:18 a.m. on October 29, 2017.
- An alleged live violation personally witnessed and recorded on October 1, 2017, at 12:28 a.m. This video was edited down for time.
- A video personally witnessed and recorded on May 14, 2017, at 1:56 a.m. showing an alleged intoxicated patron in the area of a person wearing a shirt that says "security." This lady was walking unsteadily and staggered into an Uber. This allegedly related to Charge 43.
- A video taken on October 14, 2017, at 1:48 a.m. from one of the two cameras hooked up to the DVR in the cloud. It shows a gentleman appearing to come from Bottled Blonde's basement door who is in the area of a person wearing a "security" shirt. That gentleman who left from the area of Bottled Blonde's basement door is shown later at 01:53:50 a.m. on October 14, 2017, in the condo parking garage urinating on Mr. Shiba's building.

With respect to this incident, the City identified City's Exhibit 19, as a DVD containing the same videos. Mr. Shiba identified the clip titled 2017-10-14, 01:47 A.M. Blue Sweater in Front of Building as the unedited version of the earlier referenced event.

- A video of October 13, 2017, at 1:05 a.m. showing allegedly two gentlemen emanating from Bottled Blonde walking north on Wells into the garage ramp of Mr. Shiba's former building publicly urinating in the garage. The two gentlemen then walk back down Wells Street towards Bottled Blonde. This video was from a camera on the north center of the garage ramp.
- A video clip from September 22, 2017, at 12:46 a.m. purportedly showing a gentleman coming out of Bottled Blonde's entrance and later is seen on the garage ramp. The man allegedly unzips his pants and urinates on the garage floor.

- A video clip from August 18, 2017, at 01:21 a.m. which shows three different sources of video. Two sources are the cameras on the northeast corner of the condominium building. The final 3 minutes and 5 seconds is from a security camera from another building that was given temporary control of to search for the incident. The building is at the southeast corner of Wells and Illinois. Nick Jordan, a member of that building condo association board, gave him temporary access to this building's video several months before this video. He downloaded raw footage to his personal computer to create clips. This clip purportedly shows a young lady and a gentleman on the garage ramp and proceed towards Bottled Blonde. They meet with a lady in a dress and return to the condo garage where the young lady ingests something in her nose. The witness does not know what was ingested. That woman in the dress then walks south on the west side of Wells towards Bottled Blonde and then proceeds into Bottled Blonde.
- A video clip from August 4, 2017, at 10:01 p.m. showing allegedly four women walking north on Wells Street to his condo's garage ramp where a woman with a blue jacket vomits on the wall of the entrance to the garage.
- A video clip from July 8, 2017, at 11:14 p.m. showing a person urinating on the front door of the condo. The man who urinated and two others walk towards the entrance to Bottled Blonde.
- A video clip from July 3, 2017, at 9:27:02 p.m. showing an individual vomiting by the corner of the condo vestibule. He then walks and enters Bottled Blonde.
- A video clip dated August 26, 2017, at 1:46 a.m. allegedly showing an individual walking north of Bottled Blonde's basement door to the front of the condo building where he urinates on the door.
- A video clip identified as June 25, 2017, at 6:57 p.m. taken from a condo security camera at the northeast corner of the building looking south on Wells Street towards Illinois Street. It purportedly shows a young lady in a white or light top coming out of Bottled Blonde and then lying on the sidewalk. Vomit appears to be on the pavement. The witness did not see the lady vomit.
- A video clip identified as May 28, 2017, at 2:18 a.m. allegedly showing two gentlemen walking on Wells. One of the gentlemen appears to be snorting something in the garage at 201 W. Grand.

The cross-examination of Mr. Shiba was extensive and primarily addressed the methodology he used in preparing videos allowed in evidence by the Deputy Hearing Commissioner. The cross-examination also dealt with in minute detail of what Mr. Shiba testified to that he saw on the video. Once the videos were placed into evidence, it is the video that is the evidence and not Mr. Shiba's interpretation of what was shown on the videos. For those reasons, this decision will not review the cross-examination of Mr. Shiba. This Commissioner has read and re-read the transcript but feels a review of that testimony is not needed for issuance of the decision.

Marcus Cook was called by the City as an adverse witness pursuant to Section 2-1102 of the Illinois Code of Civil Procedure.

Mr. Cook testified he has two professions. He is the Operating Partner of Bottled Blonde and Senior Vice-President of Baum Realty. He oversees operations at Bottled Blonde including managers, kitchen staff and making pertinent business decisions. There are about 18 partners on the liquor license for Bottled Blonde Chicago and those who own over 5% are on the license. Those include himself and Les and Diane Corieri. He makes daily business decisions without anybody's authority. In a rare instance in which he feels uncomfortable making a decision, Les and Diane assist him. He would decide when in the evening Bottled Blonde staff would change their clothing and he would decide when Bottled Blonde would charge for their tables.

Mr. Cook explained a table fee is a fee charged to a person for a table. It is arbitrary when such a fee would be imposed. There would be a food and beverage minimum fee as well as a table fee. There is no table or food and beverage minimum to sit at the bar. When a person calls for a table, a food and beverage minimum is set. They either spend the money on food and beverage or it is charged as a table fee. If you do nothing but sit at a table, you will be charged what was quoted as the food and beverage minimum. The witness explained a table fee is not a cover charge because entrants can come in without paying a cover.

The witness identified City's Exhibit 23 as a spreadsheet created by bookkeeper Walter Shuberg in response to an order from the City. Mr. Shuberg, in his role as office manager/bookkeeper, handles the daily credit card slips and point of sale items. Anything that is paid to Bottled Blonde

is recorded in the POS (Point of Sale) system. The witness agreed this exhibit has lines marked food expense, liquor expense, table expense as well as food sales, liquor sales and table fees. It also then breaks down percentages. He believes this exhibit is accurate. When asked how the POS would show a breakdown if there is a \$500 minimum and \$200 was spent on food and liquor, Mr. Cook did not know the answer to that question.

Mr. Cook identified City's Exhibit 24 as a printout from the POS. He does not look at printouts from the POS system and he cannot speak to the contents of this document. Mr. Cook stated occasionally he would review food or beer, or liquor invoices and has no reason to believe the invoices in City Exhibits 25, 26, and 27 are not accurate. He did review them before these invoices were sent to the City. Referring back to City's Exhibit 23, the witness agreed the sale of liquor is a larger number than food sales or table fees.

On clarification testimony, Mr. Cook referenced City's Exhibit 23 and stated there was no six-month consecutive period of time in which the sale of alcoholic beverages exceeded 50% of gross.

Prior to his position as the Operating Partner at Bottled Blonde, he owned two bars in Iowa and he managed Gibsons on Rush Street for five years. Mr. Cook testified Bottled Blonde has a total of thirty security officers assigned pursuant to consultation with a security firm it hired. On a given night, there are 11 to 12 people outside to make sure the entire block is handled.

The witness stated the purchase of liquor is more expensive than food at Bottled Blonde which is why it is not surprising the percentage of liquor sales is more than food sales.

On re-examination, Mr. Cook stated he has one general manager and one assistant general manager with three to four floor supervisors. There are approximately 40 servers and 20 or so bartenders.

Walter Shuberg was called by the City as a hostile witness. He has worked for Bottled Blonde Chicago since April 2015, with his current position being Office Manager. In that position, he

controls the money. At the close of the day, he ensures the credit card transactions went through and the cash deposits were made.

Mr. Shuberg has no involvement with the operations side of Bottled Blonde; he is the bookkeeper. Operations sends him paper receipts and he gets a printout from the POS system which he then reviews to see if they match up. Mr. Shuberg agrees that at the end of the night a customer receives a bill for their food and beverage. That bill would be generated through the POS system. Payments made by cash or credit card are entered into the system. The paper copies are turned over to him. He does not review them on a daily basis.

The witness testified Bottled Blonde charges table fees under certain circumstances. Operations also occasionally sets food and beverage minimums. He would not review such a transaction unless the credit card does not match up with what is on the system.

Mr. Shuberg was given a hypothetical question by counsel for the City -- If a customer reserves a table with a \$500 food and beverage minimum and \$100 in food and \$100 in liquor was ordered -- \$300 of that would go to table fee. It shows up this way in the POS system and it would show up that way on the receipt as well.

The Deputy Hearing Commissioner then asked Mr. Shuberg about a hypothetical question in which there is a \$500 food and beverage minimum. If the party spends \$100 in food and \$100 in a bottle of liquor, according to Mr. Shuberg, the rest would go to table fees. He added if there was no food ordered and only the \$100 for a bottle of liquor, then \$400 would be the table fee to meet the \$500 minimum.

Walter Shuberg identified City's Exhibit 25 as a Sales Tax Return for Bottled Blonde from March 2017 through February 2018. City's Exhibit 26 was identified as Invoices for food, fruits, and vegetables to Bottled Blonde. City's Exhibit 27 was identified as Invoices to Bottled Blonde for beer and probably all liquor. City's Exhibit 24 was described as Bottled Blonde's Sales and Payment History for March 2017 through February 2018, that was generated by its POS system on February 22, 2018. This is a monthly report. He used this report to prepare the spreadsheet.

Mr. Shuberg explained that under the heading “Department ” there are categories for Food, Liquor, Beer, Wine, N/A Beverages, Deposits/GCards Discounts, Table Fees, and Merchandise. The number next to each category is what was recorded for sales in that category. Deposits and GCards are listed together. Deposits would be payment for an event ahead of time and discounts are a coupon or a comp. This category is marked with a negative figure since no money is coming in. Merchandise would be hats or t-shirts.

The next section lists the manner in which payments were made. It lists various credit cards, cash, gift certificates, MealPal and EMV reader. Meal Pal is similar to Groupon.

The next section is called Product Mix Totals and is broken down into name categories including Food, Liquor, Beer, Wine, Non-Alcoholic, Discounts, and Comps. There are subcategories of Discounts and Comps for the company owner, for employees and for the manager. The other two categories are Table Fees and Merchandise.

Mr. Shuberg stated he has nothing to do with pricing at Bottled Blonde and said corporate does the pricing. He does not know if Bottled Blonde serves liquor at the bar.

Mr. Shuberg identified City’s Exhibit 23 as a spreadsheet he produced in response to an order from the City to produce this information. He derived the numbers on the spreadsheet from the point of sale system and calculations as to the percentages. He explained “Table Expense” as the cost of maintaining the table, labor costs for the table, and commissions for people booking the table. If it is a fancy event it could include chair rental or a photographer. Events could include holiday parties, birthdays or a wedding. The column Food Sales is attributed to food and liquor sales coming from the POS system.

In response to another hypothetical question posed by the Deputy Hearing Commissioner, Mr. Shuberg stated the bottle of liquor would be priced three times its cost. If no food was purchased, the rest goes to table fees. He also explained, in response to a question from the Deputy Hearing Commissioner, that the section Liquor Sales in City’s Exhibit 23 includes sales of individual drinks and bottle sales.

Mr. Shuberg identified City's Exhibit 25 as the true and accurate Sales Tax return for Bottled Blonde from March 2017 through February 2018. City's Exhibit 26 was identified as Food Invoices from Bottled Blonde and City's Exhibit 27 is Liquor Invoices for Bottled Blonde. City's Exhibit 24 is a Sales and Payment History for that time period generated by the POS system. This information was used to create the spreadsheet previously referenced. This report lists food and distinguishes beer, liquor, and non-alcoholic beverages. Deposits and discounts are listed together which is money going out. There is an entry for table fees, merchandise, and payment methods.

Mr. Shuberg was asked to compare City's Exhibit 23 and 24 from August 2017. On the Sales and Payment History Summary on City's Exhibit 24, table fees are \$111,369.29, while the Table Fees on the spreadsheet (City's Exhibit 23) are \$172,766.34. He could not remember how the difference was calculated. With respect to December 2017, Table Fees and Bottle Service on the Sales and Payment History Summary (City's Exhibit 24) totaled \$93,712.85, while the spreadsheet (City's Exhibit 23) listed table fees of \$104,255.55. The witness was then shown similar discrepancies in the totals from these exhibits for other months. Mr. Shuberg agreed that for all the months from March 2017 through February 2018, City's Exhibit 23, the spreadsheet, shows a higher amount for Table Fees than what the Sales and Payment History shows for Table Fees plus Bottle Service.

Mr. Schubert testified he is not an accountant but has a B.A. degree in Accounting from Western Michigan University. He knows basic principles but does not know any Generally Accepted Accounting Principles for Table Fees. A table fee could be charged to a person consuming only food, who is consuming only alcoholic beverages or consuming a combination of food and alcohol. He explained after the food, alcohol and table fees are calculated, sales tax of 11.25% is added.

Brian Gardner currently lives at 507 N. Wells which is directly across the street from Bottled Blonde. He lives in the second residential floor with a residential unit below and above him. He knows Nick Jordan as a neighbor in their combined building with an address of 501 N. Wells; he is on the same residential level as Nick Jordan. He has lived there for about four years and



currently lives with his fiancé. He owns about ten companies. He started his main company, Imagit, when he was 14 and he is now 33 years old. He started building computers and it is now a multi-site network engineering firm. He owns multiple properties, but his residence is the only property in River North. He has lived in River North for the last ten years.

Mr. Gardner is familiar with Bottled Blonde as a neighbor as he lives across the street. He has been a customer of Bottled Blonde since it opened. Before Bottled Blonde opened, there was a restaurant in that location on two floors for about ten years. He goes to Bottled Blonde on the average of once a week, primarily carryout. He has also been a customer inside Bottled Blonde and he was able to order food; Bottled Blonde is a bar/restaurant. River North is flooded with similar bars, but it is much larger than the other neighboring restaurants.

The witness feels Bottled Blonde has done a good job as a neighbor by adding all the different security guards that protect the outside and try to keep things calm. He has never seen a venue with so many staff trying to direct traffic and people. It does a good job keeping things controlled. The area around Bottled Blonde is noisy especially from ambulances all day and all night. There is noise from street traffic from the honking of taxis and Uber drivers. The area of River North is ten times noisier than his previous area because of the street traffic to and from the Merchandise Mart. Wells Street is a busy road with a lot going on. The biggest problem with traffic in this area is the traffic on Grand Avenue. One lane of westbound Grand must turn south on Wells and two lanes of eastbound traffic must turn left onto Wells. These three lanes from Grand merge into two lanes on Wells and you have a bottleneck from cabs and Ubers picking up and dropping people off. You also have a bike lane. It is a chaotic intersection.

Pepper Canister is a bar with an outdoor patio located directly across from Bottled Blonde. The outdoor patio holds 40 people but with smokers, there could be 60 people outside Pepper Canister.

He has personally observed the drivers of the cabs and Ubers in the area of Grand and Wells getting angry with each other; honking and yelling at all hours of the day. Bottled Blonde does bring in some additional traffic, but you still see it at 10:00 a.m.

He knows Nathan David Shiba as a resident of the 201 building from when he rented a parking spot for three years until May 2018. To get to that parking spot, he used the alley west of the building and turned left to a garage ramp. He drove into and out of that garage hundreds of times at all times of the day and night. Over that period of time, he never saw any conduct in and around that garage space. He was never hassled in any way and never saw people vomiting or urinating. He would pay Mr. Shiba by automatic check until Mr. Shiba canceled the lease.

Mr. Gardner testified he sees Bottled Blonde power washing after busy nights a handful of mornings every week. They do all sidewalks around Bottled Blonde, around the 201 Building as well as the properties to the north. He believes that is Friday, Saturday, Sunday, and Monday mornings. That side of the road is a very clean side. Bottled Blonde keeps themselves clean and the 201 Building always looks nice. It is a well-maintained area.

Pepper Cannister gets crowded for different sporting events. It is a big soccer bar and is crowded for a college game or two. When it gets full it gets noisy. Pepper Canister does not have the security Bottled Blonde has and does not power wash the sidewalk on its side of Wells Street.

Mr. Gardner explained the term source video as the raw data footage that is recorded to a host or local DVR. A local DVR is a physical appliance that has hard drives in it and it stores video footage while a host DVR would be cloud based on someone's server. A DVR located in a basement would be local.

Cloud-based DVR's are charged monthly by the storage you want. A typical cloud-based entry-level package would cover a two/three-week minimum and then the oldest storage would get recorded over. For something to be a source video, it would typically be seen in MPEGs.

On cross, Mr. Gardner explained source or raw video is video that has been recorded by some device that has not been edited, downloaded, changed or manipulated. Video recorded onto a camera is raw or source video that changes when it becomes extracted or edited.

Mr. Gardner admitted to a one time, hour and a half discussion, with the attorneys for Bottled Blonde. Those attorneys did not show the videos at issue in this case. He has no specific knowledge of how Nathan David Shiba made the videos in this case.

Mr. Gardner did not know the capacity of Bottled Blonde but compared it to three times the size of Pepper Canister without an outside patio. It does have windows that open onto the street but the sounds coming from Bottled Blonde is the same volume as everything else on the street.

It is pretty much silent from a music perspective and the windows are shut down sometime before midnight. He used to frequent Bottled Blonde between 11:00 p.m. and 2:00 a.m., once every two weeks but now maybe once every two months.

The witness stated he would need to refer to his calendar to determine if he was in Chicago on specific dates. It took him about 20 seconds to drive in and out of the garage and he never observed patrons lingering or peeing in the garage. For the last two and a half years he parked in the garage, a security guard he believed was from Bottled Blonde has been present. In general, he has seen things on the sidewalk that needed power washing like vomit, urine, broken glass and cigarette butts but not in the vicinity of Bottled Blonde. The power washing is done around 9 or 10 in the morning.

Michael Harshfield has lived at 201 N. Wells directly across from Bottled Blonde for almost a year. He moved to this area, the River North area, because of its proximity to the activities available in River North; primarily dining. There are a ton of restaurants in River North. He has a lifestyle where he does not own a car. The 40 to 50 restaurants range from your typical neighborhood tavern to a white tablecloth.

He has been a customer at Bottled Blonde once a month or so to eat lunch. He has never visited it at night. He has a unique perspective of Bottled Blonde since his two balconies look directly into Bottled Blonde. He spends a lot of time on those balconies. He does not know Brian Gardner. He met with Bottled Blonde attorneys a week before testifying for about an hour and a half.

On a typical weeknight, a lot of commuters start coming home between 5:00 and 6:30. There is a bunch of traffic with people honking horns. There are two lanes of eastbound traffic that must turn onto southbound Wells as well as a Grand Avenue westbound lane turning onto southbound Wells. The traffic is further problematic when some of these lanes of new traffic want to go eastbound on Illinois. Over the last year, there has also been utility work at Wells and Illinois. Private cars and rideshare cars do illegal stops. There is noise from the fire station three blocks away.

Mr. Harshfield opined that Bottled Blonde does not contribute to this congestion and noise in any special way. It is a business that operates and that means people, rideshares and taxis. It is no different than any other business in the city. The other restaurants in the area of Grand and Wells contribute to the traffic noise and congestion in the area.

With respect to Bottled Blonde, the witness stated he sees them power washing outside early in the morning from corner to corner on the west side of Wells. He sees people going in and out of the facility at lunch and in the evening. He sees bouncers checking id's and turning away certain prospective customers. The garage door style windows are not open past ten. There are other people helping to move crowds and it does not allow people to mill around the front. It has people trying to move rideshare people along and try to control traffic as best they can on the west side of the street. He has never personally seen a large line in front of Bottled Blonde. This would be before 10:00 pm to 10:30 pm. When he goes into his apartment he can only hear ambulances or fire trucks. He has seen people who have vomited on the sidewalk but did not see if they came from Bottled Blonde. If this was relatively close to Bottled Blonde they go out and normally will hose it down. He has not seen people urinate and the only bad behavior he has observed are the drunk idiots screaming and yelling. He has seen Bottled Blonde security escort some of the people out of Bottled Blonde. If Bottled Blonde was closed it would not necessarily eliminate these problems. This stuff was going on when it was SushiSamba. He feels Bottled Blonde is not a detriment to River North because it is no different than any other food and beverage establishment.

Mr. Harshfield recently signed a new lease and has no regrets living across from Bottled Blonde.

On cross-examination, Mr. Harshfield stated he has eaten at Gino's East and Lou Malnati's but has not seen people engaging in bad behavior exit these premises. He has seen people who get into trouble with too much alcohol at white tablecloth restaurants but has never seen anyone vomit outside such restaurants. He did see a line extending south of Bottled Blonde's entrance one time during the World Cup. He was not living in his apartment in October of 2017, as he moved in on November 1<sup>st</sup> or 2<sup>nd</sup>. Bottled Blonde does try to manage vehicular traffic as best they can. His downstairs neighbor Melanie told him about this case and was put in touch with Bottled Blonde's attorney through employee, Walter Shuberg.

Melanie Suhn has lived at 509 N. Wells, Unit 2, directly across the street from Bottled Blonde for about a year and a half. The unit has two balconies on the second level overlooking Wells Street. There are four living units in the building with the bar Pepper Canister on the first floor. This is a busy area with traffic and construction with many bars and restaurants. It is a loud neighborhood.

There is traffic on Wells, Illinois and on Hubbard. There has been construction which restricts traffic flow. You hear a lot of horns, sirens, and ambulances. The traffic includes individually owned cars, rideshare cars, cabs, buses, and pedestrian traffic. There are other bars on Wells Street like Pepper Canister, Ironside and Bar Cargo. The witness did not know if any of these establishments have 4:00 a.m. licenses. The traffic noise and congestion continue into the evening hours but does die down over the winter.

Ms. Suhn has been a patron of Bottled Blonde for about two and a half years. She conducts business meetings during lunch and goes in at night once in a while.

She has observed Bottled Blonde all hours of the day from her balcony. Bottled Blonde is doing great at controlling traffic and keeping cars moving while people are dropped off. She has never seen vomit in the areas of Wells Street and Hubbard but did see it in Wrigleyville. She has never seen people urinating in the area and has never seen drug use. She observes Bottled Blonde power wash the sidewalks from Illinois to Grand. Bottled Blonde is not a detriment to River North, it enhances the River North experience.

On cross-examination, the witness stated the power washing of the sidewalks is done around 7:00 am. She is typically home on Mondays and on the weekends. She hosts business functions at Bottled Blonde at lunchtime and watches sports there in the evening. When she goes to watch sports, she is there typically from 4:00 pm to 10:00 pm.

She and her girlfriends have gone in for bottle service. They order a bunch of food and grab a bottle and you are given a fee you are expected to spend; you meet that fee or exceed it. If you do not meet it, you are still responsible for paying it. She does not know how the charges are listed on the bill.

She testified Bottled Blonde takes care of neighbors by helping to control traffic, to get people safely across the street and not allowing entrance to people clearly intoxicated. She has seen the line to get in all the way down to Illinois but not frequently.

Lawrence Gade is a Chicago Police Sergeant currently assigned to the 18<sup>th</sup> District. He has been a Chicago Police Officer for twenty-six years and has been a Sergeant for nine years. He is currently working the midnight shift. He was previously assigned for five years as the Entertainment Venue Team Sergeant for the 18<sup>th</sup> District and left between six to eight months ago. He was the Entertainment Venue Team Sergeant in 2017. In that capacity, he and the team were responsible for monitoring licensing, issues with overcrowding, drugs in bars, fights, and things of that nature for approximately 1,100 bars and restaurants. It also included noise complaints and urination but not vomiting. Licensing was explained as checking the bar, restaurant or nightclub to ensure it had the proper operating license. Overcrowding would be determined off occupancy placards. He is sure complaints of urination were made but he could not recall specific complaints.

The witness explained River North was overwhelming with every block being a bar, restaurant, and a high rise. Over the five years he supervised the entertainment venue team, new establishments were opening up almost weekly and the area was becoming more crowded and congested. Bottled Blonde was opening at the time he started his assignment with the entertainment venue team. Bottled Blonde attended monthly meetings with the community and

the business liaison sergeant. Complaints were raised against Bottled Blonde at one of these meetings.

In the course of his job, he had contact with employees of Bottled Blonde and never found any of them to be uncooperative. He was present in 2017 when a woman complained she could not walk her dog down the street. Bottled Blonde security was trying to keep the sidewalk clear. The lady proceeded to drag the dog through the crowd. He told her nothing would be done because she could have walked down the wide-open other side of the street.

During his time as Supervisor for the Entertainment Venue Unit, he had conversations with Bottled Blonde employees about sidewalk control. These started after complaints of noise were coming and the plan of operation was changing. Stanchions were recommended, and security was hired to have patrons entering line up against the wall and to have non-patrons disperse. These measures helped move people along and keep traffic moving. He did observe people by Bottled Blonde refuse to move off the sidewalk after being ordered to do so by Bottled Blonde security officers. Bottled Blonde has no special authority to police the sidewalk out in front of the establishment. He never observed any of the Bottled Blonde security officers allow underage or people with false identifications into Bottled Blonde. He did observe the security officers counting people entering and leaving Bottled Blonde. Bottled Blonde did not receive violations for being overcrowded while he supervised the entertainment venue team. There were minimally one to two security officers attempting to keep sidewalks moving so pedestrian traffic could walk freely down the street in a northbound and southbound direction. Bottled Blonde had a team of security officers inside monitoring the crowd. Bottled Blonde did not contribute to criminal activity or to ordinance violations and the security always cooperated with the police and participated to deter criminal activity. When he responded to calls at Bottled Blonde, he observed security guards taking appropriate action to address the gist of the call. He responded to at least 30 to 40 complaints of excessive noise, but none were substantiated.

The security at Bottled Blonde was at the top compared to other establishments as to being cooperative. They were always responsive to what the department expected. The complaints he received about Bottled Blonde were no different than the complaints he received for any other

area in River North. Ninety-nine percent of the complaints he investigated were unfounded. He believes Bottled Blonde is not a public nuisance and is a good neighbor.

On cross-examination, the Sergeant recalled he discussed an incident that occurred on May 28, 2017, at Bottled Blonde with another supervisor and received some paperwork. It dealt with a subject appearing to be doing narcotics in a parking garage area. The fact there was a video was brought up. He was not working on May 14, 2017, and has no personal knowledge of whether there was public intoxication outside Bottled Blonde. He was not working on June 25, 2017, and has no knowledge if there was public vomiting in the vicinity of Bottled Blonde. He was not working on July 3, 2017, and has no personal knowledge of public vomiting in the vicinity of Bottled Blonde. He was not working on July 8, 2017, and does not have personal knowledge of public urination in the vicinity of Bottled Blonde. He was working on August 4, 2017, but has no personal knowledge if there was public vomiting in the alley garage entrance at 201 W. Grand. He was not working on August 18, 2017, and has no personal knowledge whether there was drug use in the alley garage at 201 W. Grand. He was working on August 26, 2017, but has no personal knowledge of public urination in the vicinity of Bottled Blonde. He was not working on September 22, 2017, and has no knowledge of public urination at the alley garage at 201 W. Grand. He was working on October 1, 2017, but has no recollection as to whether Bottled Blonde failed to maintain an exterior line only to the south of the premises or whether they failed to terminate the use of a line at 12:00 am. He was working on October 13, 2017, but has no personal knowledge regarding public urination at the alley garage at 201 W. Grand. He was not working on October 14, 2017, and has no personal knowledge about public urination at 201 W. Grand on that date.

The Sergeant explained Bottled Blonde security could try to detain a person for bad behavior, but it was explained at the hospitality meetings that they could not detain or arrest people on the sidewalk. Bottled Blonde did not have the authority to arrest people on the sidewalk.

Thomas Bernicky has lived at 540 N. State - Apartment 5502, at the corner of State and Grand, for the last two years. He has been a patron of Bottled Blonde three times every two weeks. Prior to moving to State and Grand, he lived in Homer Glen, IL where he served on the village plan



commission which dealt with licensing for businesses. This included applications for food and liquor licenses. Initially, Homer Glen used revenue ratios in their licensing process but that changed on his last two years on the commission. Unless you are a high-end restaurant, it is unrealistic for a municipality to expect 51% of revenue in a restaurant to come from food. Homer Glen switched from revenue ratio to square footage of kitchen to serving area. This approach was in use until he left Homer Glen in 2014.

Mr. Bernicky visits Bottled Blonde on a Thursday or Friday with his girlfriend. They order a pizza and each would have two drinks. The pizza costs between \$12 and \$15 and his two martinis cost \$15 each. He walks to Bottled Blonde through the River North area. River North is a nucleus of an urban area with people, traffic, horns, sirens, and people walking back and forth. Bottled Blonde is a very pleasant atmosphere and he has been there early and late evenings including Friday and Saturday nights. He has never been there when there is an incident and he has seen more problems at the Rock N Roll McDonald's. He has seen intoxicated people in River North but that is an isolated incident. He has not seen people at Bottled Blonde intoxicated inside or outside. Bottled Blonde is not a detriment to the River North area or the city. There is no difference between Bottled Blonde and the other bars and restaurants within a half mile of his house.

On cross-examination, Mr. Bernicky testified Homer Glen had only one tavern license and had about 25 restaurant licenses. He has never been charged a table fee or had bottle service at Bottled Blonde.

On redirect, Mr. Bernicky stated that based on mathematics, revoking the license of Bottled Blonde would not eliminate the urination problem in River North, the noise in River North, or the cabs and rideshares on Wells Street.

On recross, the witness stated there is a distinction between taking steps to prevent a problem and preventing the problem.

Marcus Cook was recalled as a witness by the Licensee. He is a Senior Vice President at Baum Realty and the Operating Partner of Bottled Blonde Chicago. He attended the University of Iowa and graduated in 1999 with a degree in Political Science. He owned three bars and restaurants in Iowa City which he sold when he moved to Chicago around the year 2000. He worked for Habitat which was a large-scale apartment company and then worked for Gibsons. He managed Luxbar and Gibsons around 2008 until 2012 or 2013. He transitioned back into commercial real estate.

He represented Bottled Blonde in its real estate search. It took three years to find the property at 504 N. Wells. The building had been vacant and was in disrepair. He became the operating partner for Bottled Blonde in mid-2014. The cost of the rebuild with fixtures and equipment was \$3.8 million. An additional \$400,000 was invested in the third level mezzanine space which is not licensed.

His duties as the operating partner are oversight of the management team and dealing with the kitchen staff. Bottled Blonde has an incidental 2:00 am liquor license, a food license, and a PPA license. Its occupancy is about 474. Everyone who works at Bottled Blonde is under him. He has a general manager, assistant general manager, a floor manager, and an office manager. The total amount of employees at Bottled Blonde is well over 100. This includes plus or minus 30 working security. The main floor is plus or minus 8,500 square feet with the kitchen occupying over 1,000 square feet.

Mr. Cook went into extensive detail about the exterior of Bottled Blonde and noted he has seen people smoking or waiting for cabs in various alcoves. He has also seen homeless people in those areas. He has seen people present in the neighboring businesses in the evening hours.

Bottled Blonde started power washing the sidewalk on Wells when it first opened. It used a gas-powered washer until the City asked not to store it on their facility. Bottled Blonde then went to a third-party company that uses a hot water scrubber power washer. It is done on a three-day schedule -- Saturday, Sunday and Monday mornings weather permitting. It initially went from Grand to Illinois but no longer includes the Contemporaine.

Mr. Cook personally attends CAPS meetings. At some point, Bottled Blonde started using stanchions as an acceptable and effective means of keeping the sidewalk orderly.

Mr. Cook explained he was asked to a meeting by BACP when city attorneys and police officers were involved in meetings with him on the operation of Bottled Blonde. He was the only employee from Bottled Blonde at these meetings. The City gave him an ultimatum to accept the terms of the Revised Plan of Operation or they would take his license. He was scared and felt pressured and felt he was under duress with no choice but to sign the Revised Plan of Operation to stay in business. He signed the Revised Plan of Operation.

On cross, Mr. Cook agreed some of the people seen in the alcoves might have been customers of Bottled Blonde and some might not have been customers of Bottled Blonde. He stated he did not sign either the original Plan of Operation or the Revised Plan of Operation. Both were signed by his partner, Les Corieri. He explained he was scared of the police at the meetings but scared for the future of his business.

Prior to the recalling of Barbara Gressel by the City, the Hearing Officer ruled that this testimony was not testimony from a rebuttal witness but that the City was allowed to reopen its case in chief.

Ms. Gressel explained she previously testified in this case on May 29, 2018. On that date, she had not had the time to review well over 1,500 pages of documents produced by Bottled Blonde three or four days before her testimony. She identified City Exhibits 23 and 24 as documents submitted by the Respondent in response to the City's subpoena. There were other documents produced but no explanation as to the numbers on these documents. It took many hours trying to reconcile these documents. After the testimony of Bottled Blonde's Bookkeeper Walter Shuberg, it was determined City's Exhibit 23 included sales tax and City's Exhibit 24 did not include sales tax.

The witness then reviewed City's Exhibit 24 month by month. She added together food, liquor, including bottle service, merchandise and table fees for each month to obtain gross sales.

Merchandise was so small she did not include it on gross sales. She excluded discounts because she was only concerned with gross sales and not a cash sale basis. The Revised Plan of Operation used the term gross sales.

City's Exhibit 28 was prepared by Ms. Gressel and it reflects the percentages of liquor, food and table fees for each month. In none of these months was the calculation of liquor percentage under 50%.

Ms. Gressel testified she did a second analysis of the figures based on the testimony of Walter Shuberg. City's Exhibit 24 removed bottle service from the monthly liquor sales as it had been included in City's Exhibit 23. City's Exhibit 29 calculates liquor sales with bottle service included. Bottle service was moved into liquor sales and the percentages were based on those figures. From March 2017 through February 2018, the percentage of liquor sales including bottle service is less than 50% one month; December 2017.

On cross-examination, Ms. Gressel stated that while she did not write the Revised Plan of Operation, her understanding is that it would be everything sold in the premises during a particular month. It would not include the added tax. She did consider items that are comped as part of gross sales. The comped items still appeared in the food, liquor, beer, wine, and non-alcoholic beverages categories. There was no way to determine what was comped. She did add liquor as bottle service. The witness then acknowledged that comped items should be deducted from gross income.

Ms. Gressel stated she testified previously in this case on May 29, 2018, before she had a chance to review records provided by Bottled Blonde because she was called to the stand. She completed her review of the records provided by Bottled Blonde because the figures in City's Exhibit 23 do not reflect the numbers in City's Exhibit 24. She reevaluated the information received in Bottled Blonde's response after Mr. Shuberg provided testimony as to how the spreadsheet was put together. Her original evaluation of the Bottled Blonde documents was not completed when she testified on May 29, 2018, but was completed before October 1, 2018. She

may have been available to testify prior to the City resting its case. She was informed by Mr. Smith when she was to testify.

The witness agreed that City's Exhibit 25 contained sales tax information. She reviewed that exhibit but that did not help her understand City's Exhibit 23. The spreadsheet in City's Exhibit 23 did not reflect numbers in the sales and payment history which was City's Exhibit 24. To the best of her knowledge, no one other than an attorney reviewed the 1,500 pages of documents provided by Bottled Blonde.

The calculations the witness made set out in City Exhibits 28 and 29 were done by an adding machine with tape. She does not have any of the tapes. She may have some notes in her file which were then provided to the attorneys for Bottled Blonde. These 12 pages of notes were marked as Licensee's Exhibit 29.

Ana Alicia Aguilar is an Accounting Associate with Evening Entertainment Group in Scottsdale, Arizona. She enters financial information like sales and payment histories into their system adhering to the Generally Accepted Accounting Principles. She identified City's Exhibit 24 as the Sales and Payment History for April 2017. She explained the daily reports look like the monthly reports, but they are daily. These daily reports are based off the product mix totals and the sales and payment history is generated from the POS system.

Ms. Aguilar starts with the food category which includes appetizers, brunch items, desserts, and food. She totals them up and enters that into the system. She then takes her liquor from whiskey, gin, and vodka and enters that into the system. She then adds up domestic and imported draft beer and bottled beer. The wine comes from wine and champagne and that total is entered into the system. All non-alcoholic beverages are totaled and entered into the system under a line marked NA. Any and all gift cards are then entered into the system. All discount and food comps are totaled and entered into the system.

Liquor discounts and comps were then totaled and put into the system. The bottle service and table fees are then totaled and entered into the system. She then takes her merchandise total and

enters it into the system. She then enters the payment methods into the system. At the end of the month, she takes the information from the daily reports to gather her monthly reports.

The witness explained bottle service and table fees are grouped together because they are the same thing that is originated at different places. Bottle service originates at the bar and table fees originate at the table. Neither includes any liquor sales which is why they are not included in the liquor total.

Food discounts and comps are totaled for the month and deducted from the food NA beverage total because discounts are not sales. There is no payment received on them. Liquor discounts and comps are then deducted from the monthly liquor total since they are not sales.

Bottle service and table fees originate from a customer being guaranteed real estate in the venue. These fees also include presentation fees for extras catering to the customer like specialty ice buckets. No liquor sales are included in bottle service or table fees.

The witness defined the term gross sales as sales that include tax. She identified City's Exhibit 23 as an Audit Sales Spreadsheet with Tax for Bottled Blonde from March 2017 through February 2018. She reviewed City's Exhibit 28 and the deposition of Barbara Gressel but cannot tell what the information on City's Exhibit 28 represents. The numbers do not include tax and do not represent the gross sales of Bottled Blonde from April 2017 through February 2018. The percentages set out for these months with respect to liquor sales, food sales, and table fees are not accurate. Exhibit 28 overstates liquor sales and understates table fees and does not apply any discounts.

Ms. Aguilar explained she had reviewed City's Exhibit 29 in conjunction with Ms. Gressel's testimony. With respect to the figures for March 2017, the amount of food sales and liquor sales are correct. The amount under the category "Liquor Sales with Bottle Service" is \$584,211.46 which was computed by taking the liquor sales of \$525,861.71 and adding \$52,449.21 for bottle service. Tax was added to that total in the amount of roughly \$5,900 which came to the total. That is not accurate because bottle service is not liquor.

The category of table fees without bottle service is reflected as \$147,844.56 which is not an accurate number for table fees in March 2017. The City took the figure of \$206,194.31, deducted bottle service and deducted tax on that service to get to that figure.

The percentage of liquor with bottle service of 53% for March 2017 is inaccurate because it includes bottle service which is not liquor. The table fee percentage without bottle service of 13% is inaccurate because it understates table fees. The percentage of liquor sales with bottle service for the months of April 2017 through February 2018 is not accurate because it overstates liquor sales and understates table fees. The percentages from April 2017 through February 2018 are not accurate because they understate table fees.

Ms. Aguilar stated the liquor percentage with bottle service on Exhibit 29 for April 2017 through February 2018 are not accurate because it overstates liquor sales. Table fee percentages are not accurate because the table fee sales are understated.

Respondent's Exhibit 34 was identified as the Audit Sales Spreadsheet without Tax from March 2017 through February 2018 for Bottled Blonde Chicago. The percentages are the same as the figures with the sales tax included.

## **ANALYSIS**

Since this is an appeal of a revocation issued by the Local Liquor Control Commission, the review by the License Appeal Commission is limited to these three questions:

1. whether the local liquor control commissioner has proceeded in the manner provided by law;
2. whether the order is supported by the findings;
3. whether the findings are supported by substantial evidence in light of the whole record.

The question of whether the Local Liquor Control Commissioner has proceeded in the manner provided by law has generally been limited to whether a licensee had received the due process

set forth by ordinance and/or statute at the revocation hearings. *WISAMI, Inc. v. Illinois Liquor Control Commission*. In this case, this Commission must ascertain if the City followed the procedures set out in the Chicago Municipal Code with respect to revocation proceedings. These procedures are set out in Section 4-4-280 of the Municipal Code which states:

No license shall be suspended or revoked unless the licensee is first given five days written notice of a public hearing with an opportunity to appear and defend. Such a public hearing shall be held before a hearing officer who shall report to the Mayor.

The record, in this case, shows a Notice of Hearing was sent to Bottled Blonde Chicago, LLC at 504 N. Wells, Chicago, IL 60654 advising the Licensee that disciplinary proceedings regarding the City of Chicago licenses to Bottled Blonde Chicago, LLC would be held in Room 805 of City Hall, 121 N. La Salle Street, Chicago, IL 60602 at 9:30 a.m. The mailing satisfied the notice provision of Section 4-4-280. The record, in this case, shows the Licensee, through the Law Offices of Tanzillo and Gallucci, defended and appeared on behalf of Bottled Blonde from February through November 2018, on several hearing dates.

Bottled Blonde did receive proper notice of the charges and an opportunity to respond and defend. This Commissioner finds that the Local Liquor Control Commissioner did proceed in the manner provided by law under the State of Illinois Liquor Control Act and the Chicago Municipal Code.

Counsel for Bottled Blonde has alleged in motions to dismiss and motions for recusal matters it alleges violates Bottled Blonde's due process rights. Illinois law does consider a liquor license "property" and requires revocation of such licenses to comport with procedural and substantive



due process. This Commission does not have the authority to rule on such due process arguments. It does acknowledge these motions are of record and feels they have been preserved for ruling in the Circuit Court.

The next issue to be addressed is whether the findings of the Deputy Hearing Commissioner are supported by substantial evidence in light of the whole record. The “substantial evidence standard” has been defined by Illinois courts as a very low threshold that is more than a scintilla of evidence but less than a preponderance of the evidence.

This case proceeded to hearing on a Third Amended Notice of Hearing with alleged 51 separate violations of sections of the Chicago Municipal Code. These charges can be divided into two types of charges. The first type of charges addressed specific violations of the original Plan of Operation and/or the Revised Plan of Operation. The Deputy Hearing Commissioner made specific Findings of Fact and those findings established a violation of the original and/or Revised Plan of Operation. The Deputy Hearing Commissioner recommended a 30-day suspension for those charges; they are Charges 2-15, 19, 20, 22, 23, 25, and 40-43.

The second category of charges are set out in Charges 44 to 51, which allege the Licensee failed to produce requested books and records within ten days of the request and that Bottled Blonde operated in a manner in which the sale of alcoholic beverages was the primary business activity in violation of the Municipal Code, the original Plan of Operation, and the Revised Plan of Operation. The Deputy Hearing Commissioner made Findings of Fact on these charges and those findings established violations of the original Liquor License Plan of Operation and/or Revised

Plan of Operation and the Municipal Code. The Deputy Hearing Commissioner recommended revocation of the liquor licenses on those charges.

Since a substantial number of the charges allege a violation of the original Plan of Operation and/or the Revised Plan of Operation, the question of the validity of these plans will be addressed. While these issues may be considered matters of law not within the jurisdiction of this Commission, a different argument could be that it is a question of evidence requiring a finding of fact.

Counsel for the Licensee argues that the Revised Plan of Operation was invalid because it was signed by Maria Guerra Lapacek, who was then the Commissioner of the Department of Business Affairs and Consumer Protection, and not the designated Liquor Commissioner of the City of Chicago. At the time of the entry of the Revised Plan of Operation, no one had been designated as the Chicago Local Liquor Control Commissioner. Section 2-25-050 of the Chicago Municipal Code grants the Commissioner of the Department of Business Affairs and Consumer Protection liquor-related suspension and revocation powers unless the mayor has designated a local liquor control commissioner. Since the Mayor was not required to name a Local Liquor Control Commissioner and since the office of the Local Liquor Control Commissioner was vacant on September 29, 2016, then Commissioner Maria Guerra Lapacek had the power and authority to execute the Revised Plan of Operation.

A similar argument has been raised with respect to the Order of Revocation being signed by Rosa Escareno in her position as Commissioner of the Department of Business Affairs and

Consumer Protection and not Local Liquor Control Commissioner Shannon Trotter. Shannon Trotter was involved in cases dealing with Bottled Blonde in her position as an Assistant Corporation Counsel prior to her appointment as Liquor Commissioner. Her inability to work on this case created a vacancy in the office of liquor commissioner for this case. With that vacancy, Commissioner Rosa Escareno was authorized to sign off on the revocation order.

In evaluating whether the findings of the Deputy Hearing Commissioner are supported by substantial evidence in light of the whole record, findings of credibility of the witnesses by the Deputy Hearing Commissioner cannot be revisited. The Deputy Hearing Commissioner observed the witnesses testify and he had the opportunity to observe and evaluate the demeanor of the witnesses while testifying.

With respect to the Findings of Fact, the issue before this Commission is not whether the Commissioners would have made the same Findings of Fact, but whether there is substantial evidence in the record as a whole to support the findings.

Charges 2-15, 19, 20, 22, 23, 25, 31, and 40-43, each allege violations of the original and/or Revised Plan of Operation that occurred on a specific date and allege a specific violation of the plans. The evidence on those charges consists of the eyewitness testimony of Nathan Shiba and the video taken by Mr. Shiba that the Deputy Hearing Officer allowed into evidence. The testimony from Mr. Shiba as to what he believed videos showed that he was not an eyewitness is not evidence. The videos themselves are the evidence. Mr. Shiba testified to how he put together the videos. Under *People v. Taylor*, 2011 Ill. 110067, the Second District Appellate

Court allowed videotape evidence from surveillance cameras if the proponent of that evidence met foundation requirements for establishing the accuracy and reliability of the process that produced the recording. The Deputy Hearing Commissioner allowed these recordings into evidence which suggests he found all the recordings met that foundation requirement. The admission of evidence in an administrative hearing is determined by the Administrative Officer and such a decision is not considered reviewable by another administrative official unless there is a gross abuse of discretion. No such abuse of discretion was shown in this record except for Charge 15. The video on this charge was based in part on video obtained from a third party. Mr. Shiba was not competent to establish the reliability of that video and it should have been excluded.

Based on this evidence, the Deputy Hearing Commissioner made specific Findings of Fact that the Licensee took the specific action alleged in Charges 2-15, 19, 20, 22, 23, 25, 31, and 40-43 and that those actions violated the original and/or Revised Plan of Operation.

The eyewitness testimony of Nathan Shiba on certain charges and the videos in evidence as the remaining charges establish substantial evidence in the record as a whole to support these Findings of Fact by the Deputy Hearing Commissioner except as to Charge 15.

Charges 44-49 all allege violations of the Municipal Code and the Liquor Control Act due to Bottled Blonde's failure to provide books and records requested by the City. There does not seem to be a dispute as to these facts. Bottled Blonde received the production request and initially did not comply. It asserted a type of privilege in that it was concerned about its business

model being public knowledge. Eventually, the books and records were produced a few days before the start of evidence in the hearing. Bottled Blonde submits the proposition that the late production of the documents was excusable and that the late production satisfies any requirements imposed by the Chicago Municipal Code and the Liquor Control Act. That proposition would not be a defense and is not a defense to the charges. It would properly be considered, if at all, as a mitigating factor in any discipline imposed by the City.

There is substantial evidence in the record as a whole to affirm the Findings on Charges 44 through 49.

Charges 50 and 51 alleged Bottled Blonde operated in a manner where the sale of alcoholic beverages was the primary business activity in violation of the original and/or Revised Plan of Operation, and in violation of the Municipal Code by operating as a tavern when it held an incidental activity license.

There is no definition in either the Municipal Code or the State of Illinois Liquor Control Act as to how one is to determine what is the primary activity of a business. The original Plan of Operation and the Revised Plan of Operation contain the clause:

For the purpose of this plan, the sale of alcoholic liquor shall be considered primary activity if, during any consecutive time period, the sale of alcoholic beverages shall exceed 50% of gross sales.

Both of these plans were signed by Les Corieri as the Managing Member of Bottled Blonde Chicago, LLC. Neither of these documents defines gross sales. Under general contract

interpretation, ambiguous terms shall be construed against the party that wrote that term. The record is silent as to who proposed or wrote or included that provision. Without such information, there can be no construing of that clause against any party.

There was testimony concerning how Bottled Blonde prepared a spreadsheet in evidence computing percentages of sales of alcohol from Walter Shuberg and Ana Alicia Aguilar. The testimony in the record was confusing and the Deputy Hearing Commissioner found this testimony to be neither credible or believable. He did not explain how or in what way these witnesses were not credible or believable, but as referenced earlier, findings of credibility are within the purview of the Deputy Hearing Commissioner.

The Deputy Hearing Commissioner also found the testimony of Barbara Gressel to be credible but again gave no explanation for this finding. Ms. Gressel is an attorney and not an accountant who opined that bottle service should be counted as part of liquor sales.

The Deputy Hearing Commissioner listened to the conflicting evidence on how the liquor sales should be determined and made Findings of Fact that bottle service was to properly be included in the sale of liquor and when bottle service is included in liquor sales. Bottled Blonde's liquor sales exceed 50% of total sales in eleven of twelve months from March 2017 to February 2018, in violation of the original and Revised Plans of Operation. While one or more of the Commissioners may not agree on these points, there is substantial evidence in the record as a whole to Affirm these Findings.

The final issue to be addressed is whether the orders of the 30-day Suspension and the Order of Revocation are supported by the findings. It should be noted that this Commission does not have the authority to remand this case to the Local Liquor Control Commission if a Commissioner feels revocation or the 30-day suspension are too severe. Section 4-4-280 of the Municipal Code gives the Mayor the power to fine a license and to suspend or revoke for good and sufficient cause if the issuing department determines that the licensee or its agent or employee has violated any provision of this code or any rule or regulation promulgated under any applicable state or federal law. Since the Plan of Operation and the Revised Plan of Operation were implemented pursuant to the Municipal Code, any violation of those plans could be a basis for a fine or suspension or revocation of a license.

Since there is substantial evidence in the record to support the findings on charges leading to a 30-day suspension, with the exception of Count 15, and since 4-4-280 allows the Local Liquor Control Commissioner to enter suspension in such cases, the entry of the 30-day suspension on those counts is supported by the findings in this case.

There was also substantial evidence in the record to support the Deputy Hearing Commissioner's findings in favor of the City on the counts in which revocation was issued. While there have been cases in which a reviewing court has determined revocation was too harsh a penalty, those cases have a common thread in that the facts showed the licensee did not have actual knowledge of the actions that led to the revocation. That is not the fact in this case. The Licensee clearly had knowledge of its actions that led to this revocation since it was previously revoked for the same actions.

**COMMISSIONER O'CONNELL'S CONCURRING OPINION**

While this Commissioner believes revocation, in this case, is very harsh reversal on all charges would result in no discipline and that is inappropriate in light of the multiple serious charges in this case. The inability of this Commission to alter the discipline or remand to the local hearing officer for his/her reconsideration of the disciplinary level leaves this Commissioner no other option than to concur with Chairman Fleming's opinion.

**DECISION**

The 30-day Suspension on Charge 15 is Reversed for insufficient evidence. The 30-day Suspension and the Order of Revocation issued on the remaining charges are Affirmed.

Pursuant to Section 154 of the Illinois Liquor Control Act, a petition for rehearing may be filed with this Commission within TWENTY (20) days after service of this order. The date of the mailing of this order is deemed to be the date of service. If any party wishes to pursue an administrative review action in the Circuit Court, the petition for rehearing must be filed with this Commission within TWENTY (20) days after service of this order as such petition is a jurisdictional prerequisite to the administrative review.

Dated: May 7, 2019

Dennis M. Fleming  
Chairman

Donald O'Connell  
Member



# **ADDENDUM A**

CITY OF CHICAGO  
DEPARTMENT OF BUSINESS AFFAIRS & CONSUMER PROTECTION  
LOCAL LIQUOR CONTROL COMMISSION  
CITY HALL -- ROOM 805  
121 NORTH LASALLE STREET  
CHICAGO, ILLINOIS 60602

IN RE LICENSE DISCIPLINARY	)	
PROCEEDINGS REGARDING THE	)	
CITY OF CHICAGO LIQUOR LICENSE	)	
AND ALL OTHER CITY LICENSES	)	
	)	
Issued to:	)	
Bottled Blonde Chicago, LLC	)	17 LR 111
d/b/a Bottled Blonde,	)	
	)	
Licensee.	)	
	)	
Located at:	)	
504 North Wells Street	)	
Chicago, Illinois 60654	)	

**THIRD AMENDED NOTICE OF HEARING**

PLEASE TAKE NOTICE that, pursuant to 235 ILCS 5/7-5 and Title 4, Chapter 4, § 280 of the Municipal Code of Chicago, a hearing will be held in Room 805 of City Hall, 121 North LaSalle Street, Chicago, Illinois, on **Tuesday, May 8, 2018 at 9:30 a.m.**, in connection with disciplinary proceedings regarding the City of Chicago licenses issued to Bottled Blonde Chicago, LLC for the premises located at 504 North Wells Street, Chicago, Illinois, upon the following charge(s):

1. That licensee failed to pay a debt due to the City after the period granted for payment expired, in violation of Municipal Code of Chicago §1-20-090, and is therefore subject to license suspension or revocation pursuant to Municipal Code of Chicago §4-4-084.
2. That on or about October 29, 2017, the Licensee, by and through its agent, operated in violation of its Revised Liquor License Plan of Operation, ¶ 10, to wit: Licensee failed to maintain an exterior single file only line to enter the premises with a maximum of 25 people, in violation of Municipal Code of Chicago § 4-60-040 (h).
3. That on or about October 29, 2017, the Licensee, by and through its agent, operated in violation of its Revised Liquor License Plan of Operation, ¶ 10, to wit: Licensee failed to maintain an exterior line to enter the premises to be formed only to the south of the premises entrance, in violation of Municipal Code of Chicago § 4-60-040 (h).
4. That on or about October 29, 2017, the Licensee, by and through its agent, operated in violation of its Revised Liquor License Plan of Operation, ¶ 10, to wit: Licensee failed to

*City Exhibit 5*

terminate use of the line to enter the premises and disperse those waiting for entry at 12:00 a.m. on Sunday morning, in violation of Municipal Code of Chicago § 4-60-040 (h).

5. That on or about October 29, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 3 to wit: Licensee failed to regularly monitor the exterior area around the premises, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, in violation of Municipal Code of Chicago § 4-60-040 (h).
6. That on or about October 29, 2017, the Licensee, by and through its agent, operated in violation of its Revised Liquor License Plan of Operation, ¶ 34, to wit: Licensee failed to ensure patrons depart in a quiet and orderly fashion, in violation of Municipal Code of Chicago § 4-60-040 (h).
7. That on or about October 14, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 3, to wit: Licensee failed to regularly monitor the exterior area around the premises, the rear alley and the alley garage entrance at 201 W. Grand, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, including public urination, in violation of Municipal Code of Chicago § 4-60-040 (h).
8. That on or about October 13, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 3, to wit: Licensee failed to regularly monitor the exterior area around the premises, the rear alley and the alley garage entrance at 201 W. Grand, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, including public urination, in violation of Municipal Code of Chicago § 4-60-040 (h).
9. That on or about October 1, 2017, the Licensee, by and through its agent, operated in violation of its Revised Liquor License Plan of Operation, ¶ 10, to wit: Licensee failed to maintain an exterior single file only line to enter the premises with a maximum of 25 people, in violation of Municipal Code of Chicago § 4-60-040 (h).
10. That on or about October 1, 2017, the Licensee, by and through its agent, operated in violation of its Revised Liquor License Plan of Operation, ¶ 10, to wit: Licensee failed to maintain an exterior line to enter the premises to be formed only to the south of the premises entrance, in violation of Municipal Code of Chicago § 4-60-040 (h).
11. That on or about October 1, 2017, the Licensee, by and through its agent, operated in violation of its Revised Liquor License Plan of Operation, ¶ 10, to wit: Licensee failed to terminate use of the line to enter the premises and disperse those waiting for entry at 12:00 a.m. on Sunday morning, in violation of Municipal Code of Chicago § 4-60-040 (h).
12. That on or about October 1, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 3 to wit: Licensee failed to regularly monitor the exterior area around the

premises, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, in violation of Municipal Code of Chicago § 4-60-040 (h).

13. That on or about September 22, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 3, to wit: Licensee failed to regularly monitor the exterior area around the premises, the rear alley and the alley garage entrance at 201 W. Grand, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, including public urination, in violation of Municipal Code of Chicago § 4-60-040 (h).
14. That on or about August 26, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 3, to wit: Licensee failed to regularly monitor the exterior area around the premises, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, including public urination, in violation of Municipal Code of Chicago § 4-60-040 (h).
15. That on or about August 18, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶¶ 3 and 11, to wit: Licensee failed to regularly monitor the exterior area around the premises, the rear alley and the alley garage entrance at 201 W. Grand, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, or any other criminal activity, including drug use, in violation of Municipal Code of Chicago § 4-60-040 (h).
16. That on or about August 17, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 3, to wit: Licensee failed to regularly monitor the exterior area around the premises, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, including public vomiting, in violation of Municipal Code of Chicago § 4-60-040 (h).
17. That on or about August 17, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶¶ 4 and 8, to wit: Licensee failed to monitor the exterior of the premises, and adjacent rights of way to prevent the accumulation of litter, and/or failed to clean the sidewalks, in violation of Municipal Code of Chicago § 4-60-040 (h).
18. That on or about August 5, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 3, to wit: Licensee failed to regularly monitor the exterior area around the premises, the rear alley and the alley garage entrance at 201 W. Grand, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, including public urination, in violation of Municipal Code of Chicago § 4-60-040 (h).
19. That on or about August 4, 2017, the Licensee, by and through its agent, operated in violation

of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 3, to wit: Licensee failed to regularly monitor the exterior area around the premises, the rear alley and the alley garage entrance at 201 W. Grand, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, including public vomiting, in violation of Municipal Code of Chicago § 4-60-040 (h).

20. That on or about August 4, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶¶ 4 and 8, to wit: Licensee failed to monitor the exterior of the premises, and adjacent rights of way to prevent the accumulation of litter, and/or failed to clean the sidewalks, in violation of Municipal Code of Chicago § 4-60-040 (h).
21. That on or about July 9, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 3, to wit: Licensee failed to regularly monitor the exterior area around the premises, the rear alley and the alley garage entrance at 201 W. Grand, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, including public urination, in violation of Municipal Code of Chicago § 4-60-040 (h).
22. That on or about July 8, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 3, to wit: Licensee failed to regularly monitor the exterior area around the premises, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, including public urination, in violation of Municipal Code of Chicago § 4-60-040 (h).
23. That on or about July 3, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 3, to wit: Licensee failed to regularly monitor the exterior area around the premises, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, including public vomiting, in violation of Municipal Code of Chicago § 4-60-040 (h).
24. That on or about July 3, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶¶ 4 and 8, to wit: Licensee failed to monitor the exterior of the premises, and adjacent rights of way to prevent the accumulation of litter, and/or failed to clean the sidewalks, in violation of Municipal Code of Chicago § 4-60-040 (h).
25. That on or about June 25, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 3, to wit: Licensee failed to regularly monitor the exterior area around the premises, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, including public vomiting, in violation of Municipal Code of Chicago § 4-60-040 (h).
26. That on or about June 25, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶¶ 4 and 8, to wit: Licensee failed to monitor the exterior of the premises, and adjacent rights of



way to prevent the accumulation of litter, and/or failed to clean the sidewalks, in violation of Municipal Code of Chicago § 4-60-040 (h).

27. That on or about June 18, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 3, to wit: Licensee failed to regularly monitor the exterior area around the premises, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, including public vomiting, in violation of Municipal Code of Chicago § 4-60-040 (h).
28. That on or about June 18, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶¶ 4 and 8, to wit: Licensee failed to monitor the exterior of the premises, and adjacent rights of way to prevent the accumulation of litter, and/or failed to clean the sidewalks, in violation of Municipal Code of Chicago § 4-60-040 (h)
29. That on or about June 16, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 3, to wit: Licensee failed to regularly monitor the exterior area around the premises, the rear alley and the alley garage entrance at 201 W. Grand, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, including public urination, in violation of Municipal Code of Chicago § 4-60-040 (h).
30. That on or about June 4, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 3, to wit: Licensee failed to regularly monitor the exterior area around the premises, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, including public urination, in violation of Municipal Code of Chicago § 4-60-040 (h).
31. That on or about May 28, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶¶ 3 and 11, to wit: Licensee failed to regularly monitor the exterior area around the premises, the rear alley and the alley garage entrance at 201 W. Grand, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, or any other criminal activity, including drug use, in violation of Municipal Code of Chicago § 4-60-040 (h).
32. That on or about May 28, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 3, to wit: Licensee failed to regularly monitor the exterior area around the premises, the rear alley and the alley garage entrance at 201 W. Grand, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, including public urination, in violation of Municipal Code of Chicago § 4-60-040 (h).
33. That on or about May 21, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 3, to wit: Licensee failed to regularly monitor the exterior area around the premises, the rear alley and the alley garage entrance at 201 W. Grand, and/or failed to address and abate noise,

loitering, littering, obtrusive and nuisance behavior, including public urination, in violation of Municipal Code of Chicago § 4-60-040 (h).

34. That on or about May 21, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 3, to wit: Licensee failed to regularly monitor the exterior area around the premises, the rear alley and the alley garage entrance at 201 W. Grand, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, including public vomiting, in violation of Municipal Code of Chicago § 4-60-040 (h).
35. That on or about May 21, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶¶ 4 and 8, to wit: Licensee failed to monitor the exterior of the premises, and adjacent rights of way to prevent the accumulation of litter, and/or failed to clean the sidewalks, in violation of Municipal Code of Chicago § 4-60-040 (h).
36. That on or about May 21, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶¶ 3 and 11, to wit: Licensee failed to regularly monitor the exterior area around the premises, the rear alley and the alley garage entrance at 201 W. Grand, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, or any other criminal activity, including drug use, in violation of Municipal Code of Chicago § 4-60-040 (h).
37. That on or about May 21, 2017, the Licensee, by and through its agent, operated in violation of its Revised Liquor License Plan of Operation, ¶ 10, to wit: Licensee failed to maintain an exterior single file only line to enter the premises with a maximum of 25 people, in violation of Municipal Code of Chicago § 4-60-040 (h).
38. That on or about May 21, 2017, the Licensee, by and through its agent, operated in violation of its Revised Liquor License Plan of Operation, ¶ 10, to wit: Licensee failed to maintain an exterior line to enter the premises to be formed only to the south of the premises entrance, in violation of Municipal Code of Chicago § 4-60-040 (h).
39. That on or about May 21, 2017, the Licensee, by and through its agent, operated in violation of its Revised Liquor License Plan of Operation, ¶ 10, to wit: Licensee failed to terminate use of the line to enter the premises and disperse those waiting for entry at 12:00 a.m. on Sunday morning, in violation of Municipal Code of Chicago § 4-60-040 (h).
40. That on or about May 14, 2017, the Licensee, by and through its agent, operated in violation of its Revised Liquor License Plan of Operation, ¶ 10, to wit: Licensee failed to maintain an exterior single file only line to enter the premises with a maximum of 25 people, in violation of Municipal Code of Chicago § 4-60-040 (h).
41. That on or about May 14, 2017, the Licensee, by and through its agent, operated in violation of its Revised Liquor License Plan of Operation, ¶ 10, to wit: Licensee failed to maintain an exterior line to enter the premises to be formed only to the south of the premises entrance, in



violation of Municipal Code of Chicago § 4-60-040 (h).

42. That on or about May 14, 2017, the Licensee, by and through its agent, operated in violation of its Revised Liquor License Plan of Operation, ¶ 10, to wit: Licensee failed to terminate use of the line to enter the premises and disperse those waiting for entry at 12:00 a.m. on Sunday morning, in violation of Municipal Code of Chicago § 4-60-040 (h).
43. That on or about May 14, 2017, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶¶ 3 and 11, to wit: Licensee failed to regularly monitor the exterior area around the premises, and/or failed to address and abate noise, loitering, littering, obtrusive and nuisance behavior, and public intoxication, in violation of Municipal Code of Chicago § 4-60-040 (h).
44. That on or about March 12, 2018, and on an ongoing and continuous basis, the Licensee, by and through its agent, has knowingly interfered with or impeded an investigation of the licensed business by the Local Liquor Control Commission by failing to provide books and records of the Licensee in compliance with an order of the Commissioner, in violation of Municipal Code of Chicago § 4-4-295.
45. That on or about March 12, 2018, and on an ongoing and continuous basis, the Licensee, after reasonable notice, failed to provide books and records for the purpose of investigation and control by the Local Liquor Control Commission, in violation of 235 ILCS 5/6-10.
46. That on or about March 12, 2018, and on an ongoing and continuous basis, the Licensee, after notice of a public hearing regarding revocation of its license has been served, failed to provide books and records for the purpose of investigation and control by the Local Liquor Control Commission, in violation of Municipal Code of Chicago § 4-4-280.
47. That on or about March 12, 2018, and on an ongoing and continuous basis, the Licensee, by and through its agent, has failed to obey an order issued by the commissioner to produce books and records of the Licensee, in violation of Municipal Code of Chicago § 2-25-110.
48. That on or about March 12, 2018, and on an ongoing and continuous basis, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 9 and Municipal Code of Chicago § 4-60-040 (h), in that Licensee failed to cooperate fully with an investigation, including, but not limited to, submitting any records requested by the LLCC.
49. That on or about March 12, 2018, and on an ongoing and continuous basis, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 9 and Municipal Code of Chicago § 4-60-040 (h), in that Licensee failed to produce records the LLCC has requested within ten days of such request.
50. That between March 2017, through February, 2018, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan



of Operation, ¶ 1, to wit: Licensee operated in a manner where the sale of alcoholic beverages was the primary business activity, in violation of Municipal Code of Chicago § 4-60-040 (h).

51. That between March, 2017, through February, 2018, the Licensee, by and through its agent, sold alcoholic liquor as its primary activity, and not as an activity incidental or secondary to the primary activity at the premises, at a time when the Licensee held a “consumption on the premises – incidental activity” license and did not hold a “tavern” license, in violation of Municipal Code of Chicago § 4-60-020(a) and § 4-60-010.

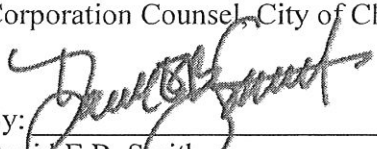
The licensee is advised that for the limited purpose of assessing the severity of the penalty that could be imposed, when applicable, the City may present evidence of previous acts of misconduct which have resulted in disciplinary action against the licensee, along with any other citizen, police, or governmental agency complaints.

The licensee is further advised that pursuant to 235 ILCS 5/4-5, the licensee or President of licensee corporation is required to appear in person at every hearing regarding these proceedings and may be required to produce for examination books and records of the Licensee.

PLEASE TAKE FURTHER NOTICE that at the hearing you may be represented by your counsel and may produce witnesses and introduce evidence on your behalf. **IN CASE OF YOUR FAILURE TO APPEAR, A DETERMINATION WILL BE MADE BY DEFAULT.**

Chicago, Illinois, April 13, 2018

Respectfully Submitted,  
Edward N. Siskel  
Corporation Counsel, City of Chicago

By:   
\_\_\_\_\_  
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(312) 744-8712  
David.EB.Smith@cityofchicago.org

**PROOF OF SERVICE**

I, David E.B. Smith, an attorney, certify that I served a copy of the within Notice of Hearing by sending to the Licensee’s attorney via email and US mail from 30 N. LaSalle Street, Chicago, Illinois 60602, with proper postage prepaid on April 13, 2018.

  
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# **ADDENDUM B**

CITY OF CHICAGO  
DEPARTMENT OF BUSINESS AFFAIRS & CONSUMER PROTECTION  
CITY HALL -- ROOM 805  
121 NORTH LASALLE STREET  
CHICAGO, ILLINOIS 60602

IN RE LICENSE DISCIPLINARY PROCEEDINGS )  
REGARDING THE CITY OF CHICAGO ) 17 LR 0111  
LIQUOR LICENSE AND ALL OTHER CITY LICENSES )  
ISSUED TO: Bottled Blonde, LLC )  
LOCATED AT: 504 N. Wells )  
HEARING DATES: *(multiple dates between 5/29/18 – 11/15/18)* )

FINDINGS OF FACT

1. I find that there is jurisdiction of the parties and the subject matter.
2. I find that the Licensee was represented by counsel, Mr. Paul Tanzillo and Ms. Jeannie Gallucci.
3. I find that the Licensee's Motion To Dismiss should be denied.
4. I find that the Licensee's Motion For Evidentiary Hearing should be denied.
5. I find the Licensee's Motion For Substitution Of Judge should be denied.
6. I find the Licensee's Motion For Recusal/Substitution of Judge should be denied.
7. I find that License's Motion For Directed Verdict should be denied.
8. I find the testimony of Barbara Gressel to be credible and believable.
9. I find the testimony of David Shiba to be credible and believable.
10. I find the testimony of Marcus Cook to be neither credible nor believable.
11. I find the testimony of Walter Shuberg to be neither credible nor believable.
12. I find the testimony of Brian Gardner to be credible and believable, but irrelevant to this case.
13. I find the testimony of Michael Harshfield to be credible and believable, but irrelevant to this case.
14. I find the testimony of Melanie Suhm to be credible and believable, but irrelevant to this case.
15. I find the testimony of Chicago Police Sergeant Lawrence Gade to be credible and believable, but irrelevant to this case.
16. I find the testimony of Thomas Bernicky to be irrelevant.
17. I find the testimony of Ana Alicia Aguilar to be neither credible nor believable.
18. I find that the Licensee failed to present any credible evidence to contradict the City's evidence, nor did it present any credible evidence in mitigation.

19. I find, only for the purpose of imposing the appropriate penalty and not for any other purpose, that the Licensee's disciplinary history includes an order of revocation in case 17 LR 18 that was issued on November 21, 2017.
20. I find that charge 1 was withdrawn by the City.
21. I find that on October 20, 2015, the Licensee and the City entered into a Plan of Operation.
22. I find that on September 29, 2016, the Licensee and the City entered into a Revised Liquor License Plan of Operation.
23. I find that on October 29, 2017, at approximately 12:18 am, the Licensee allowed a line of patrons waiting to enter the premises to exist outside of its establishment which was in excess of 25 persons.
24. I find that on or about October 29, 2017, the Licensee, by and through its agent, operated in violation of the Revised Liquor License Plan of Operation ¶ 10, in that the licensee failed to maintain an exterior single file only line to enter the premises with a maximum of 25 people, in violation of Municipal Code of Chicago § 4-60-040 (h).
25. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 2 is a suspension of 30 days.
26. I find that on October 29, 2017, at approximately 12:18 am, the Licensee allowed a line of patrons waiting to enter the premises to exist outside of its establishment which was to the north of its premises entrance.
27. I find that on or about October 29, 2017, the Licensee, by and through its agent, operated in violation of the Revised Liquor License Plan of Operation ¶ 10, in that the licensee failed to maintain an exterior line only to the south of the premises entrance, in violation of Municipal Code of Chicago § 4-60-040 (h).
28. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 3 is a suspension of 30 days.
29. I find that on October 29, 2017, the Licensee allowed a line of patrons waiting to enter the premises to exist outside of its establishment at approximately 12:18 am.
30. I find that on or about October 29, 2017, the Licensee, by and through its agent, operated in violation of the Revised Liquor License Plan of Operation ¶ 10, in that the licensee failed to terminate use of a line to enter the premises after the required time, in violation of Municipal Code of Chicago § 4-60-040 (h).
31. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 4 is a suspension of 30 days.
32. I find that on October 29, 2017, the Licensee allowed a line of patrons waiting to enter the premises to exist outside of its establishment at approximately 12:18 am and that there was a large crowd occupying the sidewalk around Bottled Blonde.
33. I find that on or about October 29, 2017, the Licensee, by and through its agent, operated in violation of the original Plan of Operation and the Revised Liquor License Plan of Operation ¶ 3, in that the Licensee failed to address and abate loitering, obtrusive and nuisance behavior, in violation of Municipal Code of Chicago § 4-60-040 (h).
34. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 5 is a suspension of 30 days.

35. I find that on October 29, 2017, at approximately 12:18 am, the Licensee allowed a large and unruly crowd of patrons entering and exiting Bottled Blonde to occupy the sidewalk around Bottled Blonde.
36. I find that on or about October 29, 2017, the Licensee, by and through its agent, operated in violation of the Revised Liquor License Plan of Operation ¶ 34, in that the Licensee failed to ensure that patrons depart in a quiet and orderly fashion, in violation of Municipal Code of Chicago § 4-60-040 (h).
37. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 6 is a suspension of 30 days.
38. I find that on October 14, 2017, at approximately 1:48 am, the video shows a man in a white shirt, who puts on a gray shirt, urinating in the garage entrance at 201 W. Grand.
39. I find that based upon the preponderance of the evidence, including the time of the event, the clothes worn by the person, and the actions of the individual, this person was a patron of Bottled Blonde.
40. I find that on October 14, 2017, the Licensee, by and through its agent, operated in violation of the original Plan of Operation and the Revised Liquor License Plan of Operation ¶ 3 in that Licensee failed to regularly monitor the exterior area around the premises during all of its business hours in order to address and abate obtrusive customer behavior, public intoxication, unruly behavior, which resulted in public urination in an adjacent garage entrance, in violation of Municipal Code of Chicago § 4-60-040 (h).
41. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 7 is a suspension of 30 days.
42. I find that on October 13, 2017, at approximately 1:05 am, the video shows a man in a dark jacket with his hair in a bun, urinating in the garage entrance at 201 W Grand.
43. I find that based upon the preponderance of the evidence, including the time of the event, the clothes worn by the person, and the actions of the individual, this person was a patron of Bottled Blonde.
44. I find that on October 13, 2017, the Licensee, by and through its agent, operated in violation of the original Plan of Operation and the Revised Liquor License Plan of Operation ¶ 3 in that Licensee failed to regularly monitor the exterior area around the premises during all of its business hours in order to address and abate obtrusive customer behavior, public intoxication, unruly behavior, which resulted in public urination in an adjacent garage entrance, in violation of Municipal Code of Chicago § 4-60-040 (h).
45. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 8 is a suspension of 30 days.
46. I find that on October 1, 2017, at approximately 12:28 am, the Licensee allowed a line of patrons waiting to enter the premises to exist outside of its establishment which was in excess of 25 persons.
47. I find that on or about October 1, 2017, the Licensee, by and through its agent, operated in violation of the Revised Liquor License Plan of Operation ¶ 10, in that the licensee failed to maintain an exterior single file only line to enter the premises with a maximum of 25 people, in violation of Municipal Code of Chicago § 4-60-040 (h).
48. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 9 is a suspension of 30 days.



49. I find that on October 1, 2017, at approximately 12:28 am , the Licensee allowed a line of patrons waiting to enter the premises to exist outside of its establishment which was to the north of its premises entrance.
50. I find that on or about October 1, 2017, the Licensee, by and through its agent, operated in violation of the Revised Liquor License Plan of Operation ¶ 10, in that the licensee failed to maintain an exterior line only to the south of the premises entrance, in violation of Municipal Code of Chicago § 4-60-040 (h).
51. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 10 is a suspension of 30 days.
52. I find that on October 1, 2017, the Licensee allowed a line of patrons waiting to enter the premises to exist outside of its establishment at approximately 12:28 am.
53. I find that on or about October 1, 2017, the Licensee, by and through its agent, operated in violation of the Revised Liquor License Plan of Operation ¶ 10, in that the licensee failed to terminate use of a line to enter the premises after the required time, in violation of Municipal Code of Chicago § 4-60-040 (h).
54. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 11 is a suspension of 30 days.
55. I find that on October 1, 2017, the Licensee allowed a line of patrons waiting to enter the premises to exist outside of its establishment at approximately 12:28 am and that there was a large crowd occupying the sidewalk around Bottled Blonde.
56. I find that on or about October 1, 2017, the Licensee, by and through its agent, operated in violation of the original Plan of Operation and the Revised Liquor License Plan of Operation ¶ 3, in that the Licensee failed to address and abate loitering, obtrusive and nuisance behavior, in violation of Municipal Code of Chicago § 4-60-040 (h).
57. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge #12 is a suspension of 30 days.
58. I find that on September 22, 2017, at approximately 12:46 am, the video shows a man with long hair and a red cap, urinating in the garage entrance at 201 W. Grand.
59. I find that based upon the preponderance of the evidence, including the time of the event, the clothes worn by the person, and the actions of the individual, this person was a patron of Bottled Blonde.
60. I find that on September 22, 2017, the Licensee, by and through its agent, operated in violation of the original Plan of Operation and the Revised Liquor License Plan of Operation ¶ 3 in that Licensee failed to regularly monitor the exterior area around the premises during all of its business hours in order to address and abate obtrusive customer behavior, public intoxication, unruly behavior, which resulted in public urination in an adjacent garage entrance, in violation of Municipal Code of Chicago § 4-60-040 (h).
61. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 13 is a suspension of 30 days.
62. I find that on August 26, 2017, at approximately 1:46 am, the video shows a man in a gray Adidas hoodie and a black cap, urinating in the front entrance to the Comtemporaine apartment building to the north of and adjacent to Bottled Blonde.
63. I find that based upon the preponderance of the evidence, including the time of the event, the clothes worn by the person, and the actions of the individual, this person was a patron of Bottled Blonde.

64. I find that on August 26, 2017, the Licensee, by and through its agent, operated in violation of the original Plan of Operation and the Revised Liquor License Plan of Operation ¶ 3 in that Licensee failed to regularly monitor the exterior area around the premises during all of its business hours in order to address and abate obtrusive customer behavior, public intoxication, unruly behavior, which resulted in public urination in an adjacent building entrance, in violation of Municipal Code of Chicago § 4-60-040 (h).
65. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 14 is a suspension of 30 days.
66. I find that on August 18, 2017, at approximately 1:21 am, the video shows a man, a woman with a checked shirt around her waist, and another woman, engaging in behavior consistent with the ingestion of illegal drugs in the garage entrance at 201 W. Grand.
67. I find that based upon the preponderance of the evidence, including the time of the event, the clothes worn by the persons, and the actions of the individuals, these persons were patrons of Bottled Blonde.
68. I find that on August 18, 2017, the Licensee, by and through its agent, operated in violation of the original Plan of Operation and the Revised Liquor License Plan of Operation ¶¶ 3 and 11 in that Licensee failed to regularly monitor the exterior area around the premises during all of its business hours in order to address and abate obtrusive customer behavior, public intoxication, unruly behavior, which resulted in apparent illegal drug use in an adjacent garage entrance, in violation of Municipal Code of Chicago § 4-60-040 (h).
69. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 15 is a suspension of 30 days.
70. I find that charges 16, 17, and 18 were withdrawn by the City.
71. I find that on August 4, 2017, at approximately 10:01 pm, the video shows four women loitering in the garage entrance at 201 N Wells, one of whom vomits.
72. I find that based upon the preponderance of the evidence, including the time of the event, the clothes worn by the persons, and the actions of the individuals, these persons were patrons of Bottled Blonde.
73. I find that on August 4, 2017, the Licensee, by and through its agent, operated in violation of the original Plan of Operation and the Revised Liquor License Plan of Operation ¶ 3 in that Licensee failed to regularly monitor the exterior area around the premises during all of its business hours in order to address and abate obtrusive customer behavior, public intoxication, unruly behavior, which resulted in vomiting in an adjacent garage entrance, in violation of Municipal Code of Chicago § 4-60-040 (h).
74. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 19 is a suspension of 30 days.
75. I find that on or about August 4, 2017, at approximately 10:01 pm, vomiting occurred in the garage entrance at 201 W Grand, near Bottled Blonde, which was not completely cleaned away.
76. I find that on or about August 4, 2017, the Licensee, by and through its agent, operated in violation of its Revised Liquor License Plan of Operation ¶¶ 4 and 8, in that the Licensee failed to regularly monitor the exterior area around the premises and /or failed, after closing, to sweep the area from corner to corner, which resulted in vomit being left in an adjacent garage entrance, in violation of Municipal Code of Chicago § 4-60-040 (h).
77. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 20 is a suspension of 30 days.

78. I find that charge 21 was withdrawn by the City.
79. I find that on July 8, 2017, at approximately 11:41 pm, the video shows a man in a white T shirt and a man in a black T shirt, and shows the man in the black T shirt urinating in the front entrance to the Comtemporaine apartment building to the north of and adjacent to Bottled Blonde.
80. I find that based upon the preponderance of the evidence, including the time of the event, the clothes worn by the persons, and the actions of the individuals, these persons were patrons of Bottled Blonde.
81. I find that on July 8, 2017, the Licensee, by and through its agent, operated in violation of the original Plan of Operation and the Revised Liquor License Plan of Operation ¶ 3 in that Licensee failed to regularly monitor the exterior area around the premises during all of its business hours in order to address and abate obtrusive customer behavior, public intoxication, unruly behavior, which resulted in public urination in an adjacent building entrance, in violation of Municipal Code of Chicago § 4-60-040 (h).
82. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 22 is a suspension of 30 days.
83. I find that on July 3, 2017, at approximately 9:27 pm, the video shows a man in a black and white shirt or sweatshirt vomiting in the front entrance to the Comtemporaine apartment building to the north of and adjacent to Bottled Blonde.
84. I find that based upon the preponderance of the evidence, including the time of the event, the clothes worn by the person, and the actions of the individual, this person was a patron of Bottled Blonde.
85. I find that on July 3, 2017, the Licensee, by and through its agent, operated in violation of the original Plan of Operation and the Revised Liquor License Plan of Operation ¶ 3 in that Licensee failed to regularly monitor the exterior area around the premises during all of its business hours in order to address and abate obtrusive customer behavior, public intoxication, unruly behavior, which resulted in vomiting in an adjacent building entrance, in violation of Municipal Code of Chicago § 4-60-040 (h).
86. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 23 is a suspension of 30 days.
87. I find that the City failed to meet its burden of proof on charge 24.
88. I find that on June 25, 2017, at approximately 6:57 pm, the video shows a woman in a white sweater apparently vomiting and collapsing on the sidewalk in front of Bottled Blonde, and lying on the sidewalk in plain view of Bottled Blonde, and that Bottled Blonde provided no assistance or addressed the behavior.
89. I find that based upon the preponderance of the evidence, including the time of the event, the clothes worn by the person, and the actions of the individual, this person was a patron of Bottled Blonde.
90. I find that on June 25, 2017, the Licensee, by and through its agent, operated in violation of the original Plan of Operation and the Revised Liquor License Plan of Operation ¶ 3 in that Licensee failed to regularly monitor the exterior area around the premises during all of its business hours in order to address and abate obtrusive customer behavior, public intoxication, and unruly behavior in violation of Municipal Code of Chicago § 4-60-040 (h).
91. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 25 is a suspension of 30 days.



92. I find that the City failed to meet its burden of proof on charge 26.
93. I find that charges 27, 28, 29, 30 were withdrawn by the City.
94. I find that on May 28, 2017, at approximately 2:10 am, the video shows a man with a white shirt and a man with a dark shirt and a beard, and the man with the dark shirt and beard engages in behavior consistent with the ingestion of illegal drugs in the garage entrance at 201 W. Grand.
95. I find that based upon the preponderance of the evidence, including the time of the event, the clothes worn by the persons, and the actions of the individuals, these persons were patrons of Bottled Blonde.
96. I find that on May 28, 2017, the Licensee, by and through its agent, operated in violation of the original Plan of Operation and the Revised Liquor License Plan of Operation ¶¶ 3 and 11 in that Licensee failed to regularly monitor the exterior area around the premises during all of its business hours in order to address and abate obtrusive customer behavior, public intoxication, unruly behavior, which resulted in apparent illegal drug use in an adjacent garage entrance, in violation of Municipal Code of Chicago § 4-60-040 (h).
97. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 31 is a suspension of 30 days.
98. I find that charges 32, 33, 34, 35, 36, 37, 38, 39 were withdrawn by the City.
99. I find that on May 14, 2017, at approximately 1:56 am, the Licensee allowed a line of patrons waiting to enter the premises to exist outside of its establishment which was in excess of 25 persons.
100. I find that on or about May 14, 2017, the Licensee, by and through its agent, operated in violation of the Revised Liquor License Plan of Operation ¶ 10, in that the licensee failed to maintain an exterior single file only line to enter the premises with a maximum of 25 people, in violation of Municipal Code of Chicago § 4-60-040 (h).
101. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 40 is a suspension of 30 days.
102. I find that on May 14, 2017, at approximately 1:56 am, the Licensee allowed a line of patrons waiting to enter the premises to exist outside of its establishment which was to the north of its premises entrance.
103. I find that on or about May 14, 2017, the Licensee, by and through its agent, operated in violation of the Revised Liquor License Plan of Operation ¶ 10, in that the licensee failed to maintain an exterior line only to the south of the premises entrance, in violation of Municipal Code of Chicago § 4-60-040 (h).
104. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 41 is a suspension of 30 days.
105. I find that on May 14, 2017, the Licensee allowed a line of patrons waiting to enter the premises to exist outside of its establishment at approximately 1:56 am.
106. I find that on or about May 14, 2017, the Licensee, by and through its agent, operated in violation of the Revised Liquor License Plan of Operation ¶ 10, in that the licensee failed to terminate use of a line to enter the premises after the required time, in violation of Municipal Code of Chicago § 4-60-040 (h).
107. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 42 is a suspension of 30 days.

108. I find that on May 14, 2017, the Licensee allowed a line of patrons waiting to enter the premises to exist outside of its establishment at approximately 1:56 am and that there was a large crowd occupying the sidewalk around Bottled Blonde and that an overserved patron exited Bottled Blonde.
109. I find that on or about May 14, 2017, the Licensee, by and through its agent, operated in violation of the original Plan of Operation and the Revised Liquor License Plan of Operation ¶ 3, in that the Licensee failed to address and abate loitering, obtrusive and nuisance behavior, in violation of Municipal Code of Chicago § 4-60-040 (h).
110. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 43 is a suspension of 30 days.
111. I find that the City issued an order to Bottled Blonde to produce books and records on or about February 15, 2018.
112. I find that the order required production of the books and records by March 12, 2018.
113. I find that Bottled Blonde produced documents entered as City's exhibits 23, 24, 25, 26, 27 on or about May 23, 2018.
114. I find that the City did not extend the time for production of the books and records.
115. I find that additional information necessary for the interpretation of the books and records produced was not provided by Bottled Blonde, and was only obtained through the testimony of Walter Shuberg in this matter, on September 17, 2018, and October 1, 2018.
116. I find that Bottled Blonde did not timely comply with the City's order to produce books and records.
117. I find that since March 12, 2018, and on an ongoing and continuous basis, the Licensee, by and through its agent, knowingly interfered with or impeded an investigation of the licensed business by the Local Liquor Control Commission by failing to provide books and records of the Licensee in compliance with an order of the Commissioner, in violation of Municipal Code of Chicago § 4-4-295.
118. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 44 is revocation.
119. I find that from March 12, 2018, to May 23, 2018, the Licensee, after reasonable notice, failed to provide books and records for the purpose of investigation and control by the Local Liquor Control Commission, in violation of 235 ILCS 5/6-10.
120. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 45 is revocation.
121. I find that from March 12, 2018, to May 23, 2018, the Licensee, after notice of a public hearing regarding revocation of its license had been served, failed to provide books and records for the purpose of investigation and control by the Local Liquor Control Commission, in violation of Municipal Code of Chicago § 4-4-280.
122. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 46 is revocation.
123. I find that from March 12, 2018, to May 23, 2018, the Licensee, by and through its agent, failed to obey an order issued by the commissioner to produce books and records of the Licensee, in violation of Municipal Code of Chicago § 2-25-110.
124. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 47 is revocation.

125. I find that from March 12, 2018, and on an ongoing and continuous basis, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 9 and Municipal Code of Chicago § 4-60-040 (h), in that Licensee failed to cooperate fully with an investigation, including, but not limited to, submitting records requested by the LLCC.
126. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 48 is revocation.
127. I find that from March 12, 2018, to May 23, 2018, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 9 and Municipal Code of Chicago § 4-60-040 (h), in that Licensee failed to produce records the LLCC had requested within ten days of such request.
128. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 49 is revocation.
129. I find that City's Exhibit 24, 28 and 29 show that when bottle service is included in liquor sales, Bottled Blonde's liquor sales exceeds 50% of total sales in 11 of twelve months from March 2017 to February 2018.
130. I find that bottle service is properly included in the sale of liquor.
131. I find the spreadsheets produced by Bottled Blonde and entered as City's Exhibit 23 and Licensee's Exhibit 34 to be inaccurate in that they exclude bottle service from the sale of liquor.
132. I find that between March 2017 and February 2018, by all measures, liquor was the largest component of Bottled Blonde's gross sales and the primary activity of Bottled Blonde.
133. I find that between March 2017, through February, 2018, the Licensee, by and through its agent, operated in violation of its Liquor License Plan of Operation or Revised Liquor License Plan of Operation, ¶ 1, to wit: Licensee operated in a manner where the sale of alcoholic beverages was the primary business activity, in violation of Municipal Code of Chicago § 4-60-040 (h).
134. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 50 is revocation.
135. I find that between March, 2017, through February, 2018, the Licensee, by and through its agent, sold alcoholic liquor as its primary activity, and not as an activity incidental or secondary to the primary activity at the premises, at a time when the Licensee held a "consumption on the premises – incidental activity" license and did not hold a "tavern" license, in violation of Municipal Code of Chicago § 4-60-020(a) and § 4-60-010.
136. I find that based upon the totality of circumstances, the appropriate punishment for the violation in charge 51 is revocation.
137. Based upon the totality of circumstances, I find that the appropriate punishment for each of the following charges is as follows:
  1. *This Charge withdrawn by City.*
  2. *For this Charge: 30 DAY SUSPENSION.*
  3. *For this Charge: 30 DAY SUSPENSION.*
  4. *For this Charge: 30 DAY SUSPENSION.*
  5. *For this Charge: 30 DAY SUSPENSION.*
  6. *For this Charge: 30 DAY SUSPENSION.*
  7. *For this Charge: 30 DAY SUSPENSION.*

8. *For this Charge: 30 DAY SUSPENSION.*
9. *For this Charge: 30 DAY SUSPENSION.*
10. *For this Charge: 30 DAY SUSPENSION.*
11. *For this Charge: 30 DAY SUSPENSION.*
12. *For this Charge: 30 DAY SUSPENSION.*
13. *For this Charge: 30 DAY SUSPENSION.*
14. *For this Charge: 30 DAY SUSPENSION.*
15. *For this Charge: 30 DAY SUSPENSION.*
16. *This Charge withdrawn by City.*
17. *This Charge withdrawn by City.*
18. *This Charge withdrawn by City.*
19. *For this Charge: 30 DAY SUSPENSION.*
20. *For this Charge: 30 DAY SUSPENSION.*
21. *This Charge withdrawn by City.*
22. *For this Charge: 30 DAY SUSPENSION.*
23. *For this Charge: 30 DAY SUSPENSION.*
24. *For this Charge: Not sustained.*
25. *For this Charge: 30 DAY SUSPENSION.*
26. *For this Charge: Not sustained.*
27. *This Charge withdrawn by City.*
28. *This Charge withdrawn by City.*
29. *This Charge withdrawn by City.*
30. *This Charge withdrawn by City.*
31. *For this Charge: 30 DAY SUSPENSION.*
32. *This Charge withdrawn by City.*
33. *This Charge withdrawn by City.*
34. *This Charge withdrawn by City.*
35. *This Charge withdrawn by City.*
36. *This Charge withdrawn by City.*
37. *This Charge withdrawn by City.*
38. *This Charge withdrawn by City.*
39. *This Charge withdrawn by City.*
40. *For this Charge: 30 DAY SUSPENSION.*
41. *For this Charge: 30 DAY SUSPENSION.*
42. *For this Charge: 30 DAY SUSPENSION.*
43. *For this Charge: 30 DAY SUSPENSION.*
44. *For this Charge: REVOCATION.*
45. *For this Charge: REVOCATION.*
46. *For this Charge: REVOCATION.*
47. *For this Charge: REVOCATION.*
48. *For this Charge: REVOCATION.*
49. *For this Charge: REVOCATION.*
50. *For this Charge: REVOCATION.*
51. *For this Charge: REVOCATION.*



Khaled J. Elkhatib  
Hearing Commissioner