

**BEFORE THE ALCOHOLIC BEVERAGE CONTROL APPEALS BOARD OF THE STATE OF CALIFORNIA**

**AB-9996**

File: 48-340125; Reg: 21091400

THREE GROUP, INC.,  
dba Crazy Girls  
1433 North La Brea Avenue  
Los Angeles, CA 90028,  
Appellant/Licensee

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,  
Respondent

Administrative Law Judge at the Dept. Hearing: Doris Hubel

Appeals Board Hearing: July 19, 2024  
Sacramento, CA/Videoconference

**ISSUED JULY 23, 2024**

*Appearances:*     *Appellant:* Adam Koslin, of Solomon, Saltsman & Jamieson,  
as counsel for Three Group, Inc.,

*Respondent:* Alanna Ormiston, as counsel for the Department  
of Alcoholic Beverage Control.

**OPINION**

Three Group, Inc., doing business as Crazy Girls (appellant), appeals from a decision of the Department of Alcoholic Beverage Control<sup>1</sup> revoking its license because: 1) its agents or employees agreed to engage in an act of prostitution, with the intent to receive money from another person in violation of Penal Code section 647(b); 2) it permitted a disorderly house, in violation of Business and

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<sup>1</sup> The decision of the Department, dated February 15, 2024, is set forth in the appendix.

Professions Code<sup>2</sup> section 25601, and; 3) it permitted or suffered the licensed premises to be used in a manner which created a law enforcement problem for law enforcement officials, creating conditions contrary to public welfare and morals as set forth in Article XX, Section 22 of the California State Constitution and section 24200(a).<sup>3</sup>

Appellant asks this Board to determine whether:

- 1) The Department proceeded in a manner prescribed by law;
- 2) The Department's conclusions are supported by the findings;
- 3) The Department's findings are supported by substantial evidence, and;
- 4) There is relevant evidence which, in the exercise of reasonable diligence, could have been produced or which was improperly excluded at the hearing before the Department.

For the reasons stated below, the Department's decision is affirmed.

## **I. FACTS AND PROCEDURAL HISTORY**

The Department issued appellants' on-sale general public premises license on August 5, 1998. There are two records of prior departmental discipline against

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<sup>2</sup> All statutory references are to the California Business and Professions Code unless otherwise stated.

<sup>3</sup> Appellant's license was also suspended for 20 days for permitting multiple patrons to smoke or ingest cannabis products, in violation of Health and Safety Code section 11362.3(a)(1) and smoke tobacco products in an enclosed space at a place of employment, in violation of Labor Code section 6404.5; 15 days for permitting multiple individuals to violate the prohibitions contained in title 4, California Code of Regulations, sections 143, 143.2(3), 143.3(1)(a)-(c), and 143.3(2), and; 15 days for violation of a condition of the license. These violations and related penalties are not discussed in the Board's opinion since they are not at issue in the appeal.

the license: one that occurred in 1999 and the other in 2017. On September 14, 2021, the Department filed an accusation. The Department filed a First Amended Accusation (FAC) on October 26, 2022.

At the administrative hearing held February 1-3, 2023, and April 4-5, 2023, the parties submitted oral evidence, documentary evidence, and evidence by oral stipulation on the record. The following individuals testified on the Department's behalf: Department agent Danny Vegara, and; Los Angeles Police Department (LAPD) peace officers Ricardo Gonzalez, William Wheat, Ester Alvarado, Julio Paredes, Ian Clark, Shannon O'Connor, Sorina Thomas, Jason Dollente, Victor Gone, William Coreas, Jose Monzon, Nayeli Medina, Craig Nollner, Sinlen Tse, Daniel Lopez, Jonathan Cabrera, Gabriel Holguin, Jessica Solis, Cindy Cabrera, Chris Capasso, David Habibi, Daniel Walker, and Benjamin Thompson. Appellant's employee, Sergio Blandino, testified on appellant's behalf, as well as appellant's attorney, Daniel Freedman, who represents appellant against the city of Los Angeles in a collateral nuisance abatement action.

Evidence established<sup>4</sup> that the licensed premises is a gentleman's club that provides adult entertainment. LAPD has jurisdiction over the area where the licensed premises is located, which is crime reporting district 644. LAPD provided statistical data for the period of January 1, 2020, through December 31, 2020. During that time, there were 1,135 crime reporting districts in LAPD's jurisdiction.

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<sup>4</sup> Given the voluminous Findings of Fact in the Department's decision, only the factual background related to the prostitution, disorderly house, and law enforcement problem counts will be provided.

There were approximately 164,000 criminal offenses reported for all the reporting districts. Using the formula set forth in the Alcoholic Beverage Control Act, the high-crime threshold was established at 174 offenses. Reporting district 644 had 282 offenses in 2020, meaning that the licensed premises was within a high crime reporting district that year.

LAPD also provided statistical data for crime reporting from January 1, 2021, through December 31, 2021. In 2021, the high-crime threshold increased to 182.4 offenses. District 644 had 296 offenses, meaning that the licensed premises was also within a high crime reporting district in 2021.

A. Counts 6 and 7

On October 9, 2019, at approximately 11:05 p.m., LAPD officers Clark and Manahan entered the licensed premises in an undercover, plain clothes capacity, and sat at a table, posing as boyfriend and girlfriend. Officer Manahan, who is female, was approached by a female dancer, later identified as Daniele Melo ("Melo"). Melo was wearing a two-piece, silver bathing suit, and stood approximately three feet from Officer Manahan while performing a sensual dance involving sexual movements for tips. Melo approached Officer Manahan's right ear and whispered, "You are very pretty," and walked away towards the bar. (Findings of Fact ("FF"), ¶ 13.)

Officer Manahan walked over to Melo at the bar and engaged her in conversation. Officer Manahan bought Melo a Corona beer, which Melo accepted. Officer Manahan and Melo walked back to Officer Manahan's table

and engaged in conversation while Melo consumed a small portion of her Corona beer. Officer Manahan asked Melo, "Do you like girls?" and told her, "I want you." (FF, ¶ 14.)

Melo told Officer Manahan that there was a back room where they can do, "everything." Officer Manahan asked Melo what she meant by "everything," to which Melo replied, "You can see when we go to the back room. It is private." (*Ibid.*) Officer Manahan interpreted "everything" as meaning sexual intercourse.

Officer Manahan asked Melo whether "everything" included going down on her and sucking on her boobs? Melo told her that it did. Officer Clark testified that going down on someone means placing your mouth on someone's genitalia.

Officer Manahan asked Melo how much she would charge, and Melo told her that it would be "\$100 for the dance and an extra \$150 for everything." (FF, ¶ 14.) Officer Manahan told Melo that she liked the price and would check with her boyfriend (Officer Clark) because he had money. Melo told Officer Manahan to check with her boyfriend and that the two of them could go to the back room later.

Officer Clark was approached by a female dancer later identified as Daniele Silva ("Silva"). Silva approached Officer Clark, and he told Silva she was pretty and that his girlfriend (Officer Manahan) thought Silva was pretty too. Officer Clark asked Silva if there was more they could get besides a traditional lap dance. Silva replied, "Yes, we could do everything." (FF, ¶ 17.) Officer Clark understood "everything" to mean oral and vaginal sex.

Silva explained that Officers Manahan and Clark could go with her to the VIP room in the back and asked for \$1,000 in exchange for "everything." Officer Clark confirmed Silva's understanding of the term "everything," and asked if she would provide oral sex to him and Officer Manahan. Silva replied that she would.

Silva told Officer Clark that she had to speak with her manager to reserve the back VIP room and got up and walked away. Approximately five minutes later, Silva returned and advised Officer Clark that the price of "everything" was \$6,000, and that he needed to go to the back VIP room and pay her manager. Silva was very clear about the exchange of sexual acts in exchange for money. Thereafter, Officer Clark sent a text message to a uniformed officer outside, advised him of the violations, and instructed LAPD officers to enter and make arrests. A team of officers entered and arrested Melo and Silva.

B. Count 20

On November 15, 2019, LAPD officers O'Connor, Gone, and Madjd entered the licensed premises with several other officers in a plain clothes capacity. Officers Gone (male) and Madjd (female) were posing as a couple. They were approached by a dancer later identified as Ariel Rodgers ("Ariel"). Ariel offered to give them a lap dance and sat upon Officer Madjd's lap. Ariel performed a lap dance for Officer Madjd.

Ariel asked Officers Gone and Madjd about what they like to do and what they are into. The officers recognized Ariel's questions as a tactic used by prostitutes to screen for potential clients and to engage in prostitution activity.

Ariel told the officers that she liked them, and “for \$150 [they] can get [her] for the whole night.” (FF, ¶ 25.)

Officer Gone asked Ariel what she meant, and Ariel replied, “you can get me in the back room completely naked.” (FF, ¶ 25.) Officer Gone asked what else they could get for more money, and Ariel stuck out her tongue and make licking motions as what appeared to Officer Gone as simulating oral sex. Officer Gone asked Ariel what she meant by the licking motion, to which Ariel replied, “I will eat out your girlfriend (Officer Madjd),” which Officer Gone interpreted as meaning oral sex. (*Ibid.*)

Officer Gone asked Ariel the price for her to perform oral sex on Officer Madjd and Ariel told him \$450. Ariel then changed the price to \$500, which Officer Gone agreed to. Ariel told Officer Gone that they would have to “go to the back.” (FF, ¶ 25.) Officer Gone agreed, and Ariel got up and began to walk toward the back room, at which time Officer Gone told her to come back in 30 minutes.

Shortly thereafter, officers Gone and Madjd got up and notified the uniformed officers standing by outside to enter the licensed premises and make arrests for solicitation. Ariel Rodgers was arrested for prostitution. She was searched incident to arrest and a condom was found in her purse.

### C. Count 23

At approximately 11:00 p.m. on December 12, 2019, LAPD officers Clark, Medina, Dollente, Thomas, and Sergeant Nollner entered the licensed premises in

a plain clothes capacity. Officer Thomas posed as the girlfriend of Officer Dollente. Department Agent Vergara and Supervising Agent Carnet were invited by LAPD and waited outside while the undercover team of officers were inside the licensed premises.

Officers Thomas and Dollente sat at a table inside the licensed premises. A dancer later identified as Evelyn Baquedano ("Baquedano") began dancing in a sexual manner in front of the officers. Baquedano spoke with Officer Dollente and gave her cellular telephone number to him. Officer Thomas asked Baquedano if she did anything other than dancing, and Baquedano replied that she charges about \$300 per hour. Officer Thomas asked Baquedano how much it would be for Baquedano to perform oral sex on her, and Baquedano replied, "\$300." (FF, ¶ 31.)

Officer Thomas asked if Baquedano would go down on her while Officer Dollente watched, and Baquedano replied yes. Baquedano also added that she exchanged numbers with Officer Dollente, and he could give her a call. Baquedano was arrested later that night when uniformed officers made entry.

#### D. Count 44 and 45

The LAPD investigation into the licensed premises was prompted, in part, by complaints of prostitution activity. The investigation began in September of 2019, and initially, Hollywood Vice (a subdivision of the LAPD), was the sole unit handling the investigation.

Initially, there were 13 calls for service at the licensed premises between September and December 2019. After several investigations, law enforcement action was conducted at the licensed premises on December 12, 2019, and several arrests were made, including manager Blandino. Blandino was notified of the various illegal activity LAPD officers observed during their investigation. Due to the COVID-19 Pandemic, the licensed premises closed from approximately March 2020 until July 2021, at which time the LAPD closed its investigation.

In August of 2021, the LAPD Vice unit began a second round of investigations into the licensed premises because there were more calls for service, including a robbery in the area, and more complaints of prostitution. The Vice unit's investigations found multiple prostitution and narcotics violations between August 2021 and December 2021. There were 22 calls for service during that time period, including several shootings and robberies connected with the licensed premises.

After several notable follow-home robberies and shootings outside of the licensed premises, and finally a homicide inside the licensed premises, the Deputy Chief of Operations for the West Bureau, which the Hollywood Division falls under, ordered that all specialized units begin dedicating their resources to the licensed premises to prevent further violent robberies or assaults within that area.

In December 2021, other Hollywood Division specialized units were assigned to investigate the licensed premises. Each specialized unit worked on the investigation from December 2021 through October of 2022, which required

surveillance coverage seven days a week while the licensed premises was open, generally from 10:00 p.m. to 4:00 a.m. To split the coverage, a 28-day deployment calendar was devised. The specialized units worked 10-hour days, resulting in 15 workdays a month.

The Vice unit carried the brunt of the workload, dedicating seven days to cover surveillance of the licensed premises, with the other units dedicating five days. Patrol supplemented any other days which were left uncovered. The Vice unit dedicated at least half of a work month exclusively to the investigation and surveillance of the licensed premises over 10 consecutive months.

Initially, Vice assigned 14 officers to the investigation but were down to 11 officers near the end. Vice would generally send out four to six officers at a time. At other times, the entire unit would be sent out depending on the time of the week. For example, if it was a Thursday or Friday night, when it was exceptionally busy at the licensed premises, Vice dedicated its entire unit to work that entire night.

The Hollywood Entertainment District unit (HED) initially had 20 officers dedicated to the licensed premises investigation, but were losing many officers during those months, and reduced their number to 12 officers. The HED would deploy a minimum of two units (four officers). The gang unit initially dedicated two officers and one sergeant to the investigation, and near the end added a third and fourth officer. The gang unit was so depleted with officers that their entire unit was dedicated to surveillance/investigation of the licensed premises.

The narcotics unit initially had one supervisor and two investigators, and toward the end of the investigation had a total of three officers. The entire narcotics unit was dedicated to surveillance of the licensed premises. The patrol units did not conduct surveillance, but instead, performed high visibility patrol dedicated to that one block area around the licensed premises. The patrol unit often took over for the specialized units because its shifts ended at 2:00 a.m., which left two hours not covered. Between December 2021 and May 2022, there were 82 calls for service at the licensed premises.

Because of the burden on law enforcement resources, many of the specialized units were not able to conduct any other investigations while investigating the licensed premises. The licensed premises investigation had a large impact on the Hollywood Division and community. The gang unit was already depleted in resources in having to investigate the licensed premises five days out of the month, which meant five days they could not police the dangerous gangs within the Hollywood Division. For the narcotics unit, that meant five to six days a month they were not able to investigate drug trafficking throughout the Hollywood Division. For the Hollywood Vice unit, it was seven days they were unable to investigate prostitution, human trafficking, and other licensed premises becoming problem locations. Other units had to sit in front of the licensed premises, which meant that several patrol units were not conducting crime suppression or high visibility patrol along Hollywood Boulevard, where there are other problems and crimes occurring.

The Hollywood patrol units, along with the entire LAPD patrol, are very depleted in resources and personnel, which meant that every unit they had to pull away was one unit that was not able to answer radio calls generated by community members or residents in the area. The ordered surveillance on the licensed premises for the 11-month period created a massive drain on law enforcement and its resources, preventing them from policing the rest of the Hollywood Division. After October of 2022, the added specialized units ceased surveillance of the licensed premises due to the drain on law enforcement resources. The LAPD as a whole, and especially the Hollywood Division's personnel, steadily decreased and it became incredibly difficult to continue that type of deployment schedule. High command weighed where they needed to deploy their resources more effectively at that time.

Investigators personally spoke with manager Blandino during the multiple Hollywood Vice investigations at the Licensed Premises. In December of 2021, officers were conducting a valet and/or guard card check when manager Blandino came outside and asked officers what he could do to help law enforcement with the problems occurring at the licensed premises. Investigators suggested the licensed premises increase security and close at 2:00 a.m. or earlier. Every other licensed premises bar, restaurant, or club in the Hollywood Division closed at 2:00 a.m., and the licensed premises was the only premises open until 4:00 a.m.

When other establishments close at 2:00 a.m., patrons begin showing up at the licensed premises at 2:15 a.m. and 2:30 a.m. Investigators observed that one type of crowd leaves the licensed premises at 1:30 a.m., and an entirely different crowd shows up to stay until closing. Despite investigator's recommendations, the licensed premises never closed earlier.

On May 17, 2023, the administrative law judge (ALJ) issued a proposed decision recommending the Department sustain counts 1, 2, 5, 6, 7, 30, 23, 28, 32, 33, 41, 44 (sub-counts 1, 2, and 10), and 45 (sub-counts 1, 2, and 10). All other counts and sub-counts were dismissed. The ALJ recommended the Department revoke appellant's license, as well as suspend it for separate periods of 20, 15, and 15 days. The Department adopted the proposed decision on February 15, 2024, pursuant to an order issued the same day.<sup>5</sup>

Appellant filed a timely appeal contending that the Department made several errors of law and fact regarding counts 6, 7, 20, and 23 (prostitution), count 44 (disorderly house), and count 45 (law enforcement problem).

## II. DISCUSSION

The Board's scope of review is limited; it may only review a Department's decision based upon "insufficiency of the evidence, excess of jurisdiction, errors of

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<sup>5</sup> There were some procedural and jurisdictional irregularities noted in the Department's February 15, 2024 order regarding the adoption of the proposed decision. However, since those issues are not pertinent to the present appeal, they are not discussed.

law, or abuse of discretion." (*Boreta Enterprises, Inc. v. Dept. of Alcoholic Bev. Control* (1970) 2 Cal.3d 85, 95, [84 Cal.Rptr. 113].)

Further, the California Constitution provides:

No judgment shall be set aside, or new trial granted, in any cause, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has *resulted in a miscarriage of justice*.

(Cal. Const., art. VI, § 13, emphasis added.) The burden to show an alleged error was prejudicial is on the party seeking reversal. (*Citizens for Open Government v. City of Lodi* (2012) 205 Cal.App.4th 296, 308 [140 Cal.Rptr.3d 459].)

Appellant argues that the Department failed to prove a required element of prostitution offenses in counts 6, 7, 20, and 23. (Appellant's Opening Brief (AOB), at pp. 8-10.) Appellant also contends that the Department erred as a matter of law by sustaining counts 44 and 45 based on unproduced evidence, unpled allegations, and other violations outside the statute of limitations. (*Id.* at pp. 10-11.) The Board will discuss these contentions in order.

#### A. Prostitution Offenses: Counts 6-7, 20, and 23

Penal Code section 647, subdivision (b)(4) states, in pertinent part, that in order to engage in an act of prostitution, there must be "some act, in addition to the manifestation of acceptance ... ." Statements may be acts, but they have to be "unambiguous and unequivocal in conveying that the agreed act of

prostitution will occur, and move the parties toward completion of the act." (*Kim v. Sup. Ct.* (2006) 136 Cal.App.4th 937, 942 [39 Cal.Rptr.3d 338].) Appellant argues that the Department failed to prove an unambiguous and unequivocal act in furtherance of prostitution. (AOB, at p. 9.)

Here, the Department found that there was an unambiguous and unequivocal act in furtherance of prostitution as to each count. (Conclusions of Law ¶¶ 19-22.) Therefore, this Board is required to defer to those findings so long as they are supported by substantial evidence. (See *Department of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Bd. (Southland)* (2002) 103 Cal.App.4th 1084, 1094 [127 Cal.Rptr.2d 652, 659] [citing *Kirby v. Alcoholic Beverage Control Appeals Bd.* (1968) 261 Cal.App.2d 119, 122 [67 Cal.Rptr. 628] ["In considering the sufficiency of the evidence issue the court is governed by the substantial evidence rule[;] any conflict in the evidence is resolved in favor of the decision; and every reasonably deducible inference in support thereof will be indulged. [Citations.]"; see also *Kirby v. Alcoholic Bev. etc. Appeals Bd.* (1972) 25 Cal.App.3d 331, 335 [101 Cal.Rptr. 815] ["When two or more inferences can be reasonably deduced from the facts, the reviewing court is without power to substitute its deductions for those of the department."].)

"Substantial evidence" is "evidence of ponderable legal significance, which is 'reasonable in nature, credible and of solid value.'" (*County of Los Angeles v. Commission on State Mandates* (1995) 32 Cal.App.4th 805, 814 [38 Cal.Rptr.2d 304, 307–308], internal citations omitted.)

Regarding prostitution, the Department found:

19. As to count 6, Dancer Melo, an employee or agent of the Licensed Premises, solicited and agreed to engage in an act of prostitution with the intent to receive money from another in violation of Penal Code section 647(b)(1) with the agreement of \$150 in exchange for oral sex with Officer Manahan. The manifestation requirement of Penal Code section 647(b)(4) was fulfilled after Officer Manahan said, **"Okay I like that. Let me check with my boyfriend because he has the money,"** and Dancer Melo replied, **"Check with him and we can go to the back later."** These were clear and unequivocal statements directed at completing the agreed-to act of prostitution. An act in furtherance may consist of words alone, providing the statement(s) made are unambiguous and unequivocal in conveying that the agreed act of prostitution would occur and move the parties toward completion of that act.<sup>[fn]</sup>

20. As to count 7, Dancer Silva, an employee or agent of the Licensed Premises, solicited and agreed to engage in an act of prostitution with the intent to receive money from another in violation of Penal Code section 647(b)(1) with the agreement of \$6,000 in exchange for oral and vaginal sex with both Officers Clark and Manahan. **The manifestation requirement of Penal Code section 647(b)(4) was fulfilled when Dancer Silva told Officer Clark he needed to go to the back VIP room and pay her manager.** This statement was unambiguous and unequivocal in conveying that the agreed act of prostitution would occur and move the parties toward completion of that act.

21. As to count 20, Ariel, an employee or agent of the Licensed Premises, solicited and agreed to engage in an act of prostitution with the intent to receive money from another in violation of Penal Code section 647(b)(1) with the agreement of \$500 in exchange for oral sex with Officer Madjd. **The manifestation requirement of Penal Code section 647(b)(4) was fulfilled when Ariel told Officer Gone "Okay, but we can't do it here, we would have to go to the back," Officer Gone agreed and Ariel got up and began to walk toward the back room.** In balancing Evidence Code section 780 Respondent's claim that Ariel was not an employee is disbelieved. The preponderance of the credible evidence established that Ariel was an employee and/or agent of Respondent's and was permitted to remain and perform as an entertainer/dancer in the Licensed Premises on

November 16, 2019. On that date, a security guard stood directly in front of the officers' VIP booth within plain view of Ariel's actions, and he did nothing to stop Ariel. Ariel directed Officer Gone to go to the back room to engage in the act of prostitution, aware of the solicitation and prostitution scheme at the Licensed Premises where entertainers/dancers led patrons to the back room. Officer Gone credibly testified to observing other patrons receiving lap dances from dancers and then making their way to the direction of the back room with the dancers.

22. As to count 23, Dancer Baquedano, an employee or agent of the Licensed Premises, solicited and agreed to engage in an act of prostitution with the intent to receive money from another in violation of Penal Code section 647(b)(1) with the agreement of \$300 in exchange for oral sex. **The manifestation requirement of Penal Code section 647(b)(4) was fulfilled when Dancer Baquedano informed Officer Thomas that she had already exchanged numbers with Officer Dollente, to give her a call, which was a clear and unequivocal statement directed at completing the agreed-to act of prostitution.**

(Conclusions of Law, ¶¶ 19-22 [emphasis added].)

The Board does not see any error with the Department's conclusions of law, based on its factual findings and the evidence. For each count of prostitution, the Department's findings are supported by substantial evidence that there was both an agreement, and an act in furtherance of that agreement: 1) Dancer Melo's offer to take the undercover officers to the back of the licensed premises; 2) Dancer Silva's request for the undercover officers to pay her manager; 3) Dancer Ariel walking towards the back of the licensed premises with the undercover officers, and; 4) Dancer Baquedano exchanging numbers with Officer Dollente. (*In re Cheri T.* (1999) 70 Cal. App. 4th 1400, 1408, [83 Cal. Rptr. 2d 397] ["[F]or there to be a violation of the statute, there must exist both an act and an agreement, but in no particular order."].) The above acts, although some

verbal, are supported by the testimony of the undercover officers offered at the hearing. The Board is not permitted to second-guess the evidence, reexamine, or reweigh it. The Department's decision regarding the prostitution counts is affirmed.

B. Disorderly House and Law Enforcement Problem: Counts 44-45

Appellant contends that the Department “presented testimony based on police statistics not provided to Appellant [...], evidence of unpled allegations offered improperly in rebuttal, and evidence of allegations outside the statute of limitations.” (AOB, at p. 10.) Appellant specifically takes issue with Detective Thompson's testimony, which is characterizes as “wholly improper, and should have never been permitted in the first place.” (*Ibid.*) Finally, appellant alleges legal error inasmuch as the Department considered “any of the lewd acts counts allegedly committed before September 14, 2020 [as] outside of the statute of limitations.” (*Id.* at p. 11.)

In sustaining counts 44-45, the Department found:

48. [T]here was ample evidence of pervasive illegal conduct taking place in the Licensed Premises, such that the Licensed Premises has been and continues to be a law enforcement problem, that the owners were actually or constructively aware of the problems and were not effective in controlling the rampant, open and overt illegal activities and violations permeating in the Licensed Premises. Those include, but are not limited to, violations ranging from the health and safety code, business and professions code, penal code, labor code, and rule 143-type violations. A clear history was established from September of 2019 to May 15, 2022, of calls for service to the Licensed Premises, open and overt solicitation and agreements to engage in prostitution, cannabis and tobacco smoking within the Licensed Premises, conditions violations, and open, overt lewd conduct violations.

49. Despite multiple warnings, discussions and notice given to the Respondent and its management by the LAPD and Department of the history of repeated violations at the Licensed Premises, illegal activity continues with no improvement. In fact, evidence established that violations were permitted by and done in the presence and view of management, staff and the Licensee. Ms. Ezerzer continues to be an absentee operator. Sergio Blandino testified that Marcel Ezerzeris is "never, at all" at the Licensed Premises. Sergio Blandino has been working at the Licensed Premises since 2017 and acknowledged that prostitution and smoking at the Licensed Premises were problems prior to 2019.

50. Sergeant Holguin testified at length to the significant drain the Licensed Premises' operation has had on the LAPD Hollywood Division and to public resources. Over a combined 18-month period the LAPD Hollywood Division, responsible for covering 17 square miles in Los Angeles, had to dedicate its vice unit, and then for 11 of those months dedicate multiple special units, including the vice, gang, narcotic, and patrol units, as well as the Hollywood Entertainment and Special Investigations Sections, to conduct operations at the Licensed Premises per the orders of the Deputy Chief of Operations for the West Bureau. The undercover operations revealed the multitude of open and overt illegal conduct and violations at the Licenses Premises as described above.

(Conclusions of Law, ¶¶ 48-50.)

First, the Department does not cite Detective Thompson's testimony as the basis for sustaining counts 44-45. Rather, the Department cites the testimony of Sergeant Holguin, who testified at length about the licensed premises as a law enforcement problem and disorderly house, and the extensive resources the LAPD invested into its investigation.<sup>6</sup> Sergeant Holguin's testimony is substantial

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<sup>6</sup> The Department also sustained counts 44 and 45 based on the other, numerous sustained counts as pled in the accusation.

evidence supporting the Department's decision sustaining counts 44 and 45, notwithstanding Detective Thompson's testimony, assuming *arguendo* that it was improperly admitted or considered.

Second, appellant asks the Board to overturn counts 44 and 45 because some of the lewd acts that occurred at the licensed premises were outside of the *criminal* statute of limitations at the time the Department filed its accusation.<sup>7</sup> (AOB, at pp. 10-11.) Appellant argues these acts cannot be considered as a basis for the Department's findings that it maintained a disorderly house and created a law enforcement problem. (*Ibid.*) The Department argues that Business and Professions Code sections 24206 and 24207 "prescribe limitation periods of one or three years for bringing various violations of the ABC Act." (Department's Reply Brief, at p. 15.) The Department adds that the "numerous violations that occurred at the premises show a continuing course of conduct demonstrating that appellant failed to operate as a diligent licensee ... ." (*Id.* at p. 16.)

We agree with the Department. There is no legal authority cited by appellant that the Department is limited by the criminal statute of limitations or the doctrine of laches for crimes in which it intends to use in an administrative action to establish that appellant operated a disorderly house and created a law enforcement problem. The Department's decision to sustain counts 44 and 45 is

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<sup>7</sup> Appellant also similarly cited the doctrine of laches at oral argument.

supported by substantial evidence; namely, the testimony of all the officers involved in the investigation of the licensed premises, with or without the testimony of Detective Thompson. The Department's decision, must therefore, stand.

### **ORDER**

The decision of the Department is affirmed.<sup>8</sup>

SUSAN A. BONILLA, CHAIR  
MEGAN McGUINNESS, MEMBER  
SHARLYNE PALACIO, MEMBER  
ALCOHOLIC BEVERAGE CONTROL  
APPEALS BOARD

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<sup>8</sup> This final order is filed in accordance with Business and Professions Code section 23088 and shall become effective 30 days following the date of the filing of this order as provided by section 23090.7.

Any party, before this final order becomes effective, may apply to the appropriate court of appeal, or the California Supreme Court, for a writ of review of this final order in accordance with Business and Professions Code section 23090 *et seq.* Service on the Board pursuant to California Rules of Court (Rule 8.25) should be directed to: 400 R Street, Ste. 320, Sacramento, CA 95811 and/or electronically to: [abcboard@abcappeals.ca.gov](mailto:abcboard@abcappeals.ca.gov).

# APPENDIX

**BEFORE THE  
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
OF THE STATE OF CALIFORNIA**

**IN THE MATTER OF THE ACCUSATION  
AGAINST:**

Three Group, Inc.  
Dbas: Crazy Girls  
1433 North La Brea Avenue  
Los Angeles, CA 90028

Licensee(s).

File No.: 48-340125

Reg. No.: 21091400

**RECEIVED**

FEB 16 2024

Alcoholic Beverage Control  
Office of Legal Services

**ORDER**

Following issuance of the original proposed decision (“PD”) in this matter, counsel for both the Department and the Licensee submitted letters to the Director identifying a number of asserted errors and inconsistencies in the PD. An order was issued on or about July 26, 2023, remanding the matter to the Administrative Law Judge (“ALJ”) to address the issues raised. This was purportedly done pursuant to Government Code section 11518.5 to correct mistakes or clerical errors in the PD.

The ALJ issued a revised proposed decision (“RPD”) on December 15, 2023. Despite having not previously objected to the July 26, 2023, remand order, counsel for the Licensee submitted a letter objecting to the RPD on the grounds that the remand order was improperly issued (more specifically, that said order was “illegal and improper”) and that “the Director [did not] possess the power to direct ALJ Huebel to author this Revised Proposed Decision in the first instance.” If the Licensee’s position is correct, this would render the RPD null and void. However, the Licensee then requests that the remedy here is to reject the RPD and take action pursuant to Government Code section 11517(c)(2)(D) or (E). If such a remedy is available as requested, then it follows that the Director also has the authority to adopt the RPD, or to take such other action as may be authorized, under the same Government Code section. The RPD cannot be both illegally issued and lawful (but only if it is rejected as requested).

Upon review of the Licensee’s objection and the relevant statutory provisions, it is determined that the remand order, although issued with good intentions, was improper. As such, the RPD was issued without lawful authority and thus has no legal effect. This means that the original PD is reinstated. However, this now presents a jurisdictional issue. Because the Licensee did not object to the remand order until following issuance of the RPD, the Department was not in a position to timely re-evaluate the remand order and act to address the issues. At this point, the Department potentially has no authority to now act on the PD since well-more than 100 days has passed since the PD was received by

Three Group, Inc., dba Crazy Girls  
48-340125; 21091400

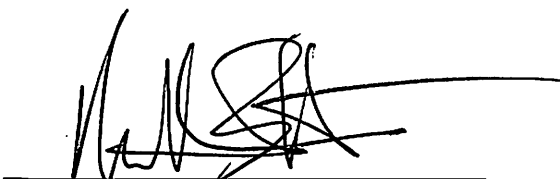
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the Director for review. Pursuant to Government Code section 11517(c)(2) it may well be determined that the PD has long-since been adopted by operation of law.

While the foregoing jurisdictional concern is recognized, in the event that this is an incorrect analysis of the Government Code provision under the circumstances here, the original PD is hereby adopted as the decision of the Department as of the date of this order.

Sacramento, California

Dated: February 15, 2024

A handwritten signature in black ink, appearing to read 'M. Botting', is written over a horizontal line. The signature is stylized and somewhat illegible.

Matthew D. Botting  
General Counsel

**BEFORE THE  
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF THE ACCUSATION AGAINST:

Three Group, Inc.	}	File: 48-340125
Dbas: Crazy Girls	}	
1433 North La Brea Avenue	}	Reg.: 21091400
Los Angeles, California 90028	}	
	}	License Type: 48
Respondent	}	
	}	Word Counts: 27,753, 29,076,
	}	28,128, 24,028 & 31,580
	}	
	}	Kennedy Court Reporters:
	}	Mikyla Lux (Feb. 1, 2, 3, & April 5)
	}	Shelby Maaske (April 4, 2023)
	}	
	}	Kennedy Video Host/Moderators:
	}	Fabian Schwin (Feb. 1, 2, 3)
	}	Christopher Chain ( April 4)
	}	Spencer Burdock (April 5)
	}	
<u>On-Sale General Public Premises License</u>	}	<b><u>PROPOSED DECISION</u></b>

Administrative Law Judge D. Huebel, Administrative Hearing Office, Department of Alcoholic Beverage Control, heard this matter by video conference on February 1, 2, and 3, 2023, and April 4 and 5, 2023.

Alanna Ormiston and Jason Liu, attorneys, represented the Department of Alcoholic Beverage Control (hereinafter the Department).

Adam Koslin, attorney-at-law, represented Respondent Three Group, Inc.

The Department seeks to discipline the Respondent's license on the grounds that:

1. Between on or about September 14, 2019 and January 4, 2020, and between on or about October 9, 2019 and November 16, 2019, Respondent-Licensee permitted multiple patrons to smoke or ingest cannabis or cannabis products within the licensed premises, a public place, in violation of Health and Safety Code section 11362.3(a)(1); (Counts 1 and 2.)

2. During the course of several separate visits, the Respondent-Licensee permitted multiple different individuals to violate the prohibitions contained in rule 143,<sup>1</sup> rule 143.2(3), rule 143.3(1)(a), rule 143.3(1)(b), rule 143.3(1)(c) and rule 143.3(2) while inside the above-captioned premises; (Counts 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 26, 27, 29, 30, 31, 34, 35, 36, and 37.)
3. Between on or about October 2, 2019 and October 10, 2019, between on or about November 15, 2019 and November 16, 2019, between on or about December 12, 2019 and December 13, 2019, between on or about October 7, 2021 and October 8, 2021 Respondent-Licensee's agents or employees, in the licensed premises, agreed to engage in an act of prostitution, with the intent to receive money from another person, in violation of Penal Code section 647(b); (Counts 6, 7, 20, 23, 24, 38 and 39.)
4. Between on or about December 12, 2019 and December 13, 2019, Respondent-Licensee's agent or employee, Jordie Mendoza, possessed, within the premises, a controlled substance, to-wit: cocaine, in violation of Health and Safety Code section 11350; (Count 25.)
5. Between on or about December 12, 2019 and December 13, 2019, and between on or about October 7, 2021 and October 8, 2021, Respondent-Licensee's agents or employees permitted the smoking of tobacco products in an enclosed space at a place of employment, in violation of Labor Code section 6404.5; (Count 28 and 41.)
6. On January 28, 2020, Respondent-Licensee violated condition number one on the license, in that the Licensee (1) did not have a personnel file for each entertainer and (2) did not have a signed copy of Rule 143.2 and 143.3 for each entertainer, such being in violation of Business and Professions Code section 23804; (Counts 32 and 33.)
7. Between on or about October 7, 2021 and October 8, 2021, Respondent-Licensee offered to sell, furnish or give away an alcohol solution of a potable nature containing a deleterious or poisonous substance, to-wit: unknown debris and insects, in violation of Penal Code section 347b; (Count 40.)
8. On May 15, 2022, Respondent-Licensee's agent or employees (Sergio Blandino and various other agents/employees) willfully resisted, delayed or obstructed peace officers, in or about the premises, in the discharge or attempted discharge of a duty of his/her office, in violation of Penal Code section 148(a)(1); (Counts 42 and 43.)
9. Between on or about August 8, 2021 and May 15, 2022, Respondent-Licensee kept or permitted, in conjunction with the licensed premises, a disorderly house, or place in which people abide or to which people resort to the disturbance of the neighborhood, or in which people abide or resort to for purposes which are

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<sup>1</sup> All rules referred to herein are contained in title 4 of the California Code of Regulations unless otherwise noted.

injurious to the public safety, health, convenience, or morals, in violation of Business and Professions Code section 25601, (10 incidents listed as sub-counts); (Count 44.)

10. Between on or about August 8, 2021 and May 15, 2022, Respondent-Licensee permitted or suffered the above-designated premises to be used in a manner which created a law enforcement problem for law enforcement officials, in that such officials were required to make numerous calls, investigations, arrests, or patrols concerning the conduct and acts occurring in or about said premises, and which thereby created conditions contrary to public welfare and morals as set forth in Article XX, Section 22 of the California State Constitution and section 24200(a) of the Business and Professions Code, (10 incidents listed as sub-counts). (Count 45.) (Exhibit 1.)

Oral evidence, documentary evidence, and evidence by oral stipulation on the record was received at the hearing. The matter was argued and submitted for decision on April 5, 2023.

#### FINDINGS OF FACT

1. The Department filed the accusation on September 14, 2021. The Department filed the First Amended Accusation on October 26, 2022.
2. The Department issued a type 48, on-sale general public premises license to the Respondent for the above-described location on August 5, 1998 (Licensed Premises). The Licensed Premises is considered a gentleman's club that provides adult entertainment. Inside the Licensed Premises, as one enters the front door, on the left along the south wall are six open VIP booths each roped off with red velvet roping. (Exhibit A-1<sup>2</sup> [identified as B1, B2, B2, B3, B4, B5, B6] and Exhibit A-2.) To the right of the entrance is a fixed bar along the east wall. (Exhibit A-1 [identified as "BAR"], and Exhibit A-5.) In front of the first section of the fixed bar are two tables with four club chairs. (Exhibit A-1 [identified as T1 and T2].) Past those tables in the center of the room are two C-shaped tables which have in the center of the C table a stage raised three-feet from the ground with a pole in the center and approximately seven club chairs around each of the two C-shaped tables. (Exhibit A-1 [identified as PP1 and PP2<sup>3</sup>], and Exhibit A-3.) Along the west wall (southern half) is an alcove with an ATM (Exhibits A-2, A-3), in front of which are two tables with approximately four club chairs (Exhibit A-1 [identified as T3 and T4] and Exhibits A-2, A-3). Along the center of the west wall are two long, leather bench booths which are connected (Exhibit A-1 [identified as B7 and B8], Exhibit A-6). Behind the west wall, through a corridor (seen on Exhibit A-6) next to B7 and B8, are extra rooms consisting of restrooms, dressing room, VIP room, storage

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<sup>2</sup> Exhibit A-1 is not to scale.

<sup>3</sup> Party Pit 1 and Party Pit 2.

room, and manager's office.<sup>4</sup> The main stage is located on the north wall, which extends into the room, with a dancing pole in the center of the stage. The main stage is raised up on a platform approximately three feet in height from the ground. (Exhibit A-1 [identified as "Main Stage" with an interlocking gold logo], Exhibits A-4, A-5.) South of the stage are two long, u-shaped and one L-shaped leather padded booths. (Exhibit A-1<sup>5</sup> [identified as VIP1, VIP2, and VIP3], A-3, A-5.) The VIP booths are approximately six feet from the main stage. On either side of the stage (to the east and west of the stage) are two large booths, approximately six feet from the main stage. (Exhibit A-1 [identified as Gold #1 and Gold #2], Exhibits A-5 and A-7.)

3. The Respondent's license has been the subject of the following discipline:

<u>Violation Date</u>	<u>Reg. No.</u>	<u>Violation</u>	<u>Penalty</u>
12/10/1999	00048864	B&P §§25658(a&b), 25602(a), 25665, 24200(a&b)	20-day suspension
02/19/2017	17085636	H&S §§110545 & 110620	POIC in lieu of 5-day susp.

The foregoing disciplinary matters are final (Exhibits 2 and 3).

4. On June 17, 1998, a corporate representative of Three Group, Inc. executed a Petition for Conditional License, which imposed one condition upon the type-48 license. The Respondent acknowledged in the Petition for Conditional License, in part, the following:

WHEREAS, the Department has expressed concern over the issuance of an unconditional license; and,

WHEREAS, the Department is concerned with a potential law enforcement problem at the above-mentioned premises; and,

WHEREAS, the issuance of an unrestricted license would be contrary to public welfare or morals;

NOW, THEREFORE, the undersigned petitioner(s) do/does hereby petition for a conditional license as follows, to-wit:

<sup>4</sup> Testimony established that these rooms were illegally constructed without a permit, including unlawful electrical, plumbing and mechanical work, in violation of Los Angeles Municipal Code.

<sup>5</sup> Since exhibit A-1 is not to scale, it identifies these two u-shaped and the L-shaped booth as VIP1, VIP2, and VIP3; they can mostly be seen in the color photograph in Exhibit A-5.

1. The Licensee(s) shall maintain upon the premises, a personnel file for each entertainer consisting of (1) employment application, (2) photograph, and (3) signed copy of Rule 143.2 and 143.3. This file shall be produced upon request by any peace officer. (Exhibit 9.)
  
  5. The Petition for Conditional Licensed included an attachment with copies of California Code of Regulations, Title 4, Division 1, Article 22, sections 143.2 and 143.4, commonly referred to as rule 143.2 and rule 143.4, which the Licensee/Respondent acknowledged receipt thereof.
  
  6. The Los Angeles Police Department (LAPD) has jurisdiction over the area in which the Licensed Premises is located, which is crime reporting district 644. The LAPD provided statistical data within the meaning of Section 23958.4 for the period of January 1, 2020, through December 31, 2020. There were 1,135 crime reporting districts in their jurisdiction. There were approximately 164,000 criminal offenses reported for all the reporting districts. Using the formula set forth in the Alcoholic Beverage Control Act, the average number of offenses per district is 145, making the high-crime threshold 174 offenses. Reporting district 644 had 282 offenses (or 194.5%). A 120 % or above value is considered a high crime area. In 2020 the Licensed Premises was within a high crime reporting district.
  
  7. The LAPD provided statistical data within the meaning of Section 23958.4 for the period of January 1, 2021, through December 31, 2021. There were 1,135 crime reporting districts. There were approximately 172,500 criminal offenses reported for all the reporting districts. Using the formula set forth in the Alcoholic Beverage Control Act, the average number of offenses per district is 152, making the high-crime threshold 182.4 offenses. Reporting district 644 had 296 offenses (or 194.7%). With 120 % or above value considered to be a high crime area, in 2021 the Licensed Premises was within a high crime reporting district.
- September 14, 2019<sup>6</sup>**  
**(Counts 1, 3 and 4)**
8. The LAPD initiated an investigation into the Licensed Premises after receiving numerous citizen complaints regarding alleged repeated violations of law, including but not limited to Alcoholic Beverage Control violations, indoor smoking of tobacco and cannabis, sale of single tobacco products, and prostitution at the Licensed Premises. All of the officers who testified and who were assigned to the varying undercover and uniformed investigations of the Licensed Premises were from different units of the LAPD

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<sup>6</sup> The headings and sub-headings throughout the decision are for reference only.

and had extensive training and experience in the subject matter of their investigations and testified based on that training and experience.

9. LAPD Officers Paredes and Pineda investigated the Licensed Premises based on a citizen complaint about the Licensed Premises. On September 14, 2019, Officers Paredes and Pineda, in an undercover capacity, entered the Licensed Premises after paying a cover fee at the entrance. The officers sat at one of the C-shaped tables with the raised platform and pole in the center (hereinafter C-shaped table). (Exhibit A-3.) One of Respondent's female dancers, who was not identified (hereinafter referred to as Dancer 1<sup>7</sup>), walked to Officer Pineda, grabbed Officer Pineda's hands and placed them on her buttocks, with the officer's hands on Dancer 1's bare skin of her buttocks. Dancer 1 did not in any way attempt to conceal her actions. There were multiple security guards in the Licensed Premises. No one approached Officer Pineda or Dancer 1 to stop the officer from touching Dancer 1's buttocks. There was no evidence a security guard witnessed Officer Pineda's hands on Dancer 1's buttocks. When Dancer 1 placed Officer Pineda's hands on her buttocks Officer Pineda immediately removed his hands, at which point Dancer 1 sat on Officer Pineda's lap and began dancing, moving up and down in a sexual manner.

**(Count 4)**

10. At one point Dancer 1 unexpectedly grabbed Officer Paredes' groin area, on top of his jeans, and he could feel her make contact with his genitals. Dancer 1 made no effort to conceal her physical contact to Officer Paredes' genitals. No one stopped Dancer 1 from touching Officer Paredes' genitalia. In response to Dancer 1 touching Officer Paredes' genitalia he immediately stood up, asked her if she wanted a drink and walked away. There was no evidence any security guard witnessed Dancer 1 grabbing Officer Paredes' groin area.

**(Counts 1 and 2)**

11. While in the Licensed Premises, based on Officer Paredes training and experience, he smelled cannabis being smoked. He determined the source of the cannabis smell to be multiple patrons whom he observed smoking cannabis joints/cigarettes freely inside the Licensed Premises for the entire duration he was in the Licensed Premises, which was approximately one hour and a half. He saw no one intervene to stop the patrons from smoking cannabis.

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<sup>7</sup> For ease of reference the undersigned will designate herein a number for unidentified dancers.

**October 9 to 10, 2019  
(Counts 1 and 2)**

12. On October 9, 2019, at approximately 11:05 p.m., LAPD Officers Clark and Manahan entered the Licensed Premises an undercover, plain clothes capacity. Immediately upon entering Officer Clark recognized from his training and experience the smell of the powerful burning odor of cannabis being smoked. He identified the source of the smell of cannabis smoke to be a male and female couple seated at a table near the main stage. Throughout the 90 minutes Officer Clark was in the Licensed Premises he observed that couple sharing a hand-rolled cannabis joint which they passed between them and smoked. While Officer Clark was in the Licensed Premises, he observed other persons smoking cannabis cigarettes. He observed, for approximately six minutes, two of Respondent's female dancers smoke a cannabis joint they shared between them while they danced at a C-shaped table. Officer Clark observed another of Respondent's dancers smoke a cannabis joint while she danced on the main stage. Officer Clark smelled the odor of smoked cannabis in the Licensed Premises the entire time he was there. There were security guards in the Licensed Premises while the officers were in the premises. No one intervened to stop any of the patrons or dancers who Officer Clark observed openly smoking cannabis joints in the Licensed Premises.

13. At some point, Officers Clark and Manahan<sup>8</sup> sat at a table south of the dance floor located in the center of the Licensed Premises, posing as boyfriend and girlfriend. At approximately, 11:30 p.m., while seated, Officer Manahan was approached by a female dancer, who was identified as Daniele Melo (hereinafter referred to as Dancer Melo). Dancer Melo was wearing a two-piece, silver bathing suit, and stood approximately three feet away from Officer Manahan performing a sensual dance involving sexual movements for tips. Dancer Melo approached Officer Manahan's right ear and whispered, "You are very pretty," and walked away towards the bar.

**(Counts 5 and 6)**

14. Officer Manahan walked over to Dancer Melo at the bar and engaged her in conversation. Officer Manahan purchased Dancer Melo a Corona beer, which Dancer Melo accepted and the two walked back to the table south of the main stage and sat in separate chairs. They were positioned near each other when they engaged in conversation at the table, during which Dancer Melo consumed a small portion of her Corona beer. Officer Manahan asked Dancer Melo, "Do you like girls?" and told her "I want you."

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<sup>8</sup> Officer Manahan is a female officer, who was not available to testify at the hearing because she was out of the country on vacation. Officer Clark testified both about the incident Officer Manahan participated in with Dancer Melo, as well as Officer Manahan's written report relating said incident with Dancer Melo. Officer Manahan's report was admitted as Exhibit 5.

Dancer Melo replied, "There is a back room where I can do everything<sup>9</sup> to you." Officer Manahan asked Dancer Melo, "What do you mean 'everything'?" Dancer Melo replied, "Everything. You can see when we go to the back room. It is private." Officer Manahan asked, "Does 'everything' include going down on me and sucking my boobs?" Dancer Melo replied, "Yes." Officer Manahan asked, "How much will everything cost me?" Dancer Melo replied, "\$100 for the dance and an extra \$150 for everything." Officer Manahan said, "Okay I like that. Let me check with my boyfriend because he has the money." Dancer Melo replied, "Check with him and we can go to the back later." Dancer Melo walked away. (Exhibit 5.) Officer Clark testified that based on his training and experience to "go down on someone" means to place your mouth against their genitalia.

**(Count 8)**

15. Officer Clark observed two of Respondent's dancers (referred to as Dancer 2 and Dancer 3) on the small, raised platform performing. Dancer 2 bent down at the waist while Dancer 3 approached Dancer 2 from behind and took Dancer 2's hips under Dancer 3's control (with Dancer 3's hands) and Dancer 3 began thrusting with her pelvis simulating male to female sexual intercourse. No one intervened to stop these dancers from simulating an act of sexual intercourse.

**(Counts 9, 10 and 11)**

16. Officer Clark then observed another dancer, who was performing on the stage wearing a see-through mesh lingerie bodysuit that revealed her shaved genitalia, which allowed Officer Clark to see the dancer's vulva, and her exposed buttocks. No one intervened to stop the dancer, and she was permitted to perform on stage with her vulva and buttocks exposed while within 12 inches from Officer Clark.

**(Count 7)**

17. Officer Clark observed Respondent's dancers mingle with patrons. One of the female dancers, later identified as Daniele Silva (hereinafter referred to as Dancer Silva), approached and engaged Officer Clark in conversation. Officer Clark told her she was pretty and that his girlfriend (referring to Officer Manahan) thought Dancer Silva was pretty too. Officer Clark asked Dancer Silva if there was more they could get besides a traditional lap dance. Dancer Silva replied, "Yes, we could do everything." Based on Officer Clark's training and experience "everything" was street vernacular for oral and

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<sup>9</sup> Officer Manahan's written report prepared at or near the time of the investigation relating to the conversation includes a notation that the term "everything" is "street Vernacular for sexual intercourse." Exhibit 5.

vaginal sex. Dancer Silva explained that the three of them could go to the VIP room in the back and asked for \$1,000 in exchange for “everything.” Officer Clark confirmed Dancer Silva’s understanding of the term “everything” and asked her if she would provide oral sex to him and his girlfriend (referring to Officer Manahan), to which Dancer Silva replied that she would. Dancer Silva said she had to check with her manager to reserve the back VIP room, at which point she got up and walked away. Approximately five minutes later, Dancer Silva returned to Officer Clark and advised him the price of “everything” was \$6,000, and that he needed to go to the back VIP room and pay her manager. Dancer Silva was very clear about the exchange of sexual acts in exchange for money. Thereafter Officer Clark text messaged a uniformed officer outside of the violations and instructed them to enter and make arrests. Officer Clark stayed in the Licensed Premises until the team of officers entered and placed the suspects in custody, at which point he left the premises.

18. Daniele Melo and Daniele Silva were arrested on October 10, 2019. (Exhibit 5.)

**November 15 to 16, 2019  
(Counts 1 and 2)**

19. On November 15, 2019, at approximately 11:00 p.m., LAPD Officers O’Connor, Gone, and Madjd entered the Licensed Premises with several other officers in a plain clothes capacity. While inside the Licensed Premises Officer O’Connor, based on her training and experience, detected the smell of burnt cannabis and tobacco. She identified the source of the burnt cannabis, observing the smoke and smelling the odor of fresh burnt cannabis coming from some patrons she saw openly smoking from a rolled joint. The patrons did not attempt to conceal their smoking cannabis. Officer O’Connor observed them smoke the cannabis joint on and off throughout the hour duration she was in the Licensed Premises, which included into the morning of December 13, 2019. There were multiple security guards inside the Licensed Premises, at the front entrance and at the rear of the premises, approximately five to 10 feet away from the patrons smoking cannabis. No one intervened to stop the patrons from smoking cannabis. During that hour Officer O’Connor also observed two dancers performing in her direct line of sight, where she could see the dancers sharing and inhaling from a rolled joint, open and overtly. Officer O’Connor could smell the odor of fresh burnt cannabis as they smoked the joint. No one intervened to stop the dancers from smoking cannabis inside the Licensed Premises.

**(Counts 12 to 14)**

20. Officers Gone and Madjd had entered the Licensed Premises posing as a male and female couple. There were approximately 10 to 15 male patrons and 10 to 15 female dancers in the premises. The female dancers stood out from the patrons because the

dancers were very scantily dressed, wearing lingerie either one piece or two-piece bikinis, or partially nude wearing heels. The patrons were fully dressed, wearing t-shirts, sweaters and jackets.

21. After Officers Gone and Madjd entered the Licensed Premises they noticed at the bar to their right two patrons, a female Hispanic wearing a short black dress and a male Hispanic facing her, engaging in heavy, open-mouth tongue kissing. The officers had a clear, unobstructed view of the couple. The male was grabbing the female's breasts with both of his hands, making direct contact with her breasts, as he pushed his body closer and tighter to hers. At some point the female's back was up against the bar. The female's body was leaning over onto the bar counter with the bartender observing the couple's interactions. The male's hands reached under the female's dress from behind, grabbed and made direct contact with her buttocks. The male's hand then moved to and made contact with the female's genitals, grabbing and making direct contact with her vagina/genitals, touching and rubbing them for approximately 10 seconds. During this time the male was thrusting his groin forward and into the female at her vagina, simulating sexual intercourse. The female placed her hands inside the male's pants touching, making direct contact with and rubbing his penis and groin area for approximately 10 to 15 seconds. While this was going on multiple bar staff and security guards were within five feet of the couple openly engaging in simulated sexual intercourse. The security guards were clearly identifiable as such since they were wearing shirts that said security. No personnel, security guard or otherwise, made any attempt to stop the male and female while they engaged in the said interactions.

**(Counts 15 to 16)**

22. At some point, Officers Gone and Madjd sat in a VIP booth just south of the main stage. (Exhibit A-1 depicts the Licensed Premises partial floor plan, Officer Gone testified they were seated in either Booth3 (B3) or Booth 4 (B4) located on the left/south wall as they entered the front door; Exhibit A-2 color photo of VIP booths.) They observed a couple of black male patrons, sitting in the center of the room. (Exhibit A-1 partial floor plan, Officer Gone testified the male patrons were seated at PP2.) The male patrons were approached by a black female dancer and a Hispanic female dancer, who engaged the male patrons in conversation. The black female dancer was wearing a gold-colored lingerie one-piece and the Hispanic female dancer was wearing a black two-piece lingerie. The black female dancer began dancing with one of the male patrons who was wearing a t-shirt and black zip-up hoodie sweater. The black female dancer sat on the male black patron's lap facing away from him. She then placed her ankles on the patron's shoulders while lifting her body off the patron's knees, she then pushed his head with her legs into her vaginal area. The male patron's face made direct contact with the black female dancer's vagina through the lingerie and kept it there for approximately five seconds. The black female dancer attempted to pull away, but the patron placed both of

his hands on her thighs and pulled her back towards his face, burying his face and making direct contact with her vagina/genitalia, while moving his head up and down. Based on Officer Gone's training and experience it appeared they were simulating oral sex or actually making contact and engaging in oral sex.

**(Counts 17 to 18)**

23. Simultaneously, as the above-described interaction was occurring, the female Hispanic dancer, who was wearing the black two-piece lingerie, began dancing with another male black patron, who was wearing a red, long-sleeved shirt. The female Hispanic dancer straddled the male patron, facing him with her legs wrapped around him. She grabbed the patron's head and pulled his head to her breasts, causing her lingerie top to fully expose her breasts to view, allowing his face to make direct, skin to skin contact with her uncovered bare breasts for approximately five seconds. The female Hispanic dancer then danced while straddled upon the male black patron's lap with her breasts exposed to view, just inches away from the male patron. While both the female black dancer and female Hispanic dancer were so engaged with the black male patrons, a female Hispanic waitress wearing a gold mesh one-piece bikini with a black fanny-pack approached the table, set down several drinks and allowed the dancers to proceed with their simulated sexual acts. Security guards were present throughout the Licensed Premises. No employee or security guard made any attempt to stop the female black dancer's or the female Hispanic dancer's actions with the male patrons.

**(Count 19)**

24. While sitting at the VIP booth (either B3 or B4) a female black dancer who called herself Ariel, who was later identified as Ariel Rogers (hereinafter referred to as Ariel), approached Officers Gone and Madjd and engaged them in brief conversation. Ariel offered to give them a lap dance. Ariel sat upon Officer Madjd's lap, facing away from Officer Madjd. Ariel then reached back, grabbed both of Officer Madjd's hands and placed them on her breasts, allowing Officer Madjd's hands to make direct contact with Ariel's breasts, and assisted the officer's hands in rubbing her breasts. Officer Madjd removed her hands, whereupon Ariel grabbed Officer Madjd's hands attempting to place them back on her breasts, but Officer Madjd pulled her hands away and pulled dollar bills from the officer's pocket to tip Ariel in an effort to distract Ariel and mitigate the chance Officer Madjd would be discovered as an undercover officer. Officer Gone also gave Ariel tips. Officer Gone was sitting right next to Officer Madjd, approximately one foot away, as the above interaction was occurring. While Ariel was seated on Officer Madjd's lap with the officer's hands upon Ariel's breasts, there was a security guard standing directly in front of their VIP booth within plain view of Ariel's actions, and he did nothing to stop Ariel.

**(Count 20)**

25. Ariel then continued to engage in conversation with Officers Gone and Madjd, about what they like to do and what they are into, which the officers recognized as a tactic used by prostitutes to screen for potential clients to engage in prostitution activity. Based on their training and experience the officers determined Ariel was about to solicit them for prostitution, when Ariel said "I like you and your girlfriend for \$150 you can get me for the whole night." Officer Gone asked Ariel what she meant. Ariel, while seated a foot away from the officers replied, "you can get me in the back room completely naked. Officer Gone asked what else they could get for more money. Ariel replied, "For more money you can get this," Ariel then stuck out her tongue and made licking motions as what appeared to the officer based on his training and experience as simulating oral sex. Officer Gone asked Ariel what she meant by the licking motion, to which Ariel replied, "I will eat out your girlfriend (referring to Officer Madjd)," which, based on Officer Gone's training and experience, is common street vernacular for oral sex. Officer Gone asked Ariel how much for you to eat her out, to which Ariel replied "\$450" and added that she would not be able to perform oral sex on Officer Madjd in plain view in the booth. Ariel then said, "Give me \$500," to which Officer Gone said he would give her \$500 to perform oral sex on Officer Madjd. Ariel said, "Okay, but we can't do it here, we would have to go to the back." Officer Gone agreed to Ariel's solicitation. Ariel got up and began to walk toward the back room, at which time Officer Gone told her to "Come back in 30 minutes, I'm going to get some more dances from other girls. Then you can come back and eat out my girlfriend." With regard to Exhibit A-1 Officer Gone testified that the back room Ariel was referring to could be accessed through a corridor next to B7 and B8 (of the Exhibit A-1 partial floor plan). Officer Gone observed other patrons receiving lap dances from dancers and then making their way to the direction of the back room with the dancers. Shortly thereafter Officers Gone and Madjd got up and notified the uniform officers standing by outside to enter the Licensed Premises and make their arrests for solicitation. On November 16, 2019, Ariel Rogers was arrested for prostitution under Penal Code section 647(b). Ariel was searched incident to arrest, whereupon a condom was found in her purse. On November 16, 2019, both Officers Gone and Madjd wrote reports documenting their observations. (Exhibits 7 and 8.)

**(Counts 21 and 22)**

26. At one point Officer O'Connor sat at a table with four chairs (marked as either T1 or T2 on Exhibit A-1), which was adjacent to a C-shaped table (marked as PP1 on Exhibit A-1.) From her position at her table Officer O'Connor observed a female dancer (hereinafter Dancer 4) wearing lingerie bottoms, encourage a female patron, both of whom were at PP1, to fondle Dancer 4's bare breasts. The female patron touched and fondled both of Dancer 4's bare breasts, while they were less than six feet apart at the

time. Then Dancer 4 turned around and permitted the female patron to touch Dancer 4's buttocks.

#### **December 4 and 5, 2019**

27. Department Agent Vergara appeared and testified at the hearing. Agent Vergara was involved and assisted in the investigation into the Licensed Premises. He was the liaison between the Department and LAPD. The LAPD had notified Agent Vergara about their ongoing investigation into prostitution violations at the Licensed Premises. Agent Vergara is familiar with the Licensed Premises and its layout, having inspected the premises and reviewed the ABC-257 (Licensed Premises Diagram and Planned Operation form) in the Respondent's base file with the Department. He said that the Respondent's entertainers are usually scantily clad in bikini-lingerie-type attire. He testified that the Respondent's Exhibit A-1 did not accurately depict the entire Licensed Premises because several rooms and the front entrance were missing from the diagram.

28. On or about December 4, 2019, the LAPD contacted Agent Vergara about an incident which occurred in the early morning hours of December 4, 2019, where LAPD officers responded to a call for service regarding a man with a gun in front of the Licensed Premises. Agent Vergara visited the Licensed Premises and requested inspection and examination of records, including video surveillance in hopes the suspect's image was captured on surveillance cameras, but the Licensee and/or employee was/were unable to provide the requested records and video.

29. On December 5, 2019, Agent Vergara sent, by certified mail with return receipt, a notice to produce records request to the Respondent's address on file with the Department. The noticed requested the Respondent produce pursuant to section 25753 of the Business and Professions Code the following information connected with the official investigation involving the Licensed Premises: (1) Copies of any and all video surveillance recorded at the location, both inside and outside on December 4, 2019, from the hours of 0001 to 0500 hours. (2) List of all employees, including job titles, payroll records and copies of identifications for November and December 2019. (3) List of security guards, copies of guard cards and contract with security guard provider (PPO) if outsourced for November and December 2019. Agent Vergara's phone number was listed to make an appointment prior to bringing in the requested records. (Exhibit 10.) The Department received no written response thereto as of December 18, 2019.

#### **December 12 to 13, 2019**

30. On December 12, 2019, at approximately 11:00 p.m., LAPD Officers Clark, Medina, Dollente and Sergeant Nollner entered the Licensed Premises with other LAPD officers in a plain clothes capacity, along with Officer Thomas who entered undercover posing as

the girlfriend to Officer Dollente. Department Agent Vergara and Supervising Agent Carnet were invited by LAPD, and they arrived at some point and waited outside while the undercover team of officers were in the Licensed Premises.

**(Count 23)**

31. Officers Thomas and Dollente walked to and sat at a table on the west side of the Licensed Premises. A Hispanic female dancer, later identified as Evelyn Baquedano (hereinafter referred to as Dancer Baquedano), began dancing in a sexual manner in front of Officers Dollente and Thomas. Dancer Baquedano spoke with Officer Dollente and gave her cellular telephone number to him. Then, as Dancer Baquedano bent over in Officer Thomas' direction to pick up tip money after performing a dance, Officer Thomas asked Dancer Baquedano if she did anything else, to which she replied that she charges about \$300 an hour. Officer Thomas clarified that Dancer Baquedano was talking about charging for the service of a sex act in exchange for the charge of \$300, by using street vernacular for oral sex and asked Dancer Baquedano, "How much would it be to go down on me?" Dancer Baquedano replied, "\$300." Officer Thomas then asked if Dancer Baquedano would go down on her while Officer Dollente watched, to which Dancer Baquedano replied yes she would and added that she had already exchanged numbers with Officer Dollente, to give her a call. The conversation between Officer Thomas and Dancer Baquedano was in English; there was no evidence Dancer Baquedano did not understand the conversation.

**(Count 24)**

32. A dancer later identified as Jennifer Quan (hereinafter referred to as Dancer Quan) approached Officer Dollente and they engaged in small talk. Dancer Quan indicated she was suspicious of undercover cops because there had been a lot of undercover cops at the Licensed Premises. Officer Dollente asked Dancer Quan if she did bachelor parties, because his friend was getting married later that year and they were going to throw him a bachelor party. Dancer Quan replied she did and that it cost \$500 per hour per dancer. Officer Dollente asked what came with the bachelor party, to which Dancer Quan said they "pretty much do everything" ("everything" is street vernacular for sexual intercourse). Officer Dollente asked Dancer Quan what "everything" meant. Dancer Quan said she could only tell him if he got a VIP lap dance first. Dancer Quan said she could not give the answer on the main room of the premises because there have been a lot of violations that occurred there, and to answer him they had to go to the VIP room. They did not go to the VIP room.

33. Officer Dollente then changed the conversation and told her his car is parked outside and asked her if she wanted to do a "car date," which is street vernacular for having sexual intercourse in the car. Dancer Quan answered "Yeah" and said she charges \$1000

for a car date. Officer Dollente asked Dancer Quan if the \$1000 car date was for "everything" for "sex," to which Dancer Quan replied, yes. Dancer Quan walked away. The LAPD take down team entered the Licensed Premises to identify suspects and make arrests. Dancer Quan was placed in custody. Dancer Quan and Officer Dollente had not made any arrangements to go out to his car; he did not give her a phone number, did not tell her what kind of car he had or where it was in the parking lot, no money was exchanged, nothing else was said. Officer Dollente remained where he was until it was safe to leave the premises, maintaining his undercover capacity.

**(Count 26)**

34. While Officer Medina was in the Licensed Premises, approximately one hour and a half, it was not crowded and she observed 10 to 15 other patrons inside. At one point Officer Medina observed a female dancer, who was wearing a black bra and black underwear, bend over a male patron, who was touching and fondling the female dancer's buttocks for approximately two minutes, during which time Officer Medina observed two security guards in the premises. No one intervened to stop the patron from fondling the female dancer's buttocks.

**(Count 27)**

35. Officer Medina also observed another female Hispanic dancer, who was wearing black lingerie which covered her genitalia and erogenous zones, fondle her own breasts and buttocks with her hands, and then run her hand down her body to her vaginal area above her clothing for approximately 30 seconds. While she was engaging in these actions no one intervened to stop her.

**(Count 28)**

36. Officer Medina observed a male patron smoking a tobacco cigarette inside the Licensed Premises for approximately 30 seconds. At some point a waitress walked up to her and asked if she wanted to purchase a hookah, which is used to smoke tobacco. Officer Medina did not purchase the hookah.

37. Officer Dollente walked to the men's restroom and observed a male bathroom attendant selling items, including loose tobacco cigarettes which were displayed loosely on the counter. Officer Dollente purchased two tobacco cigarettes from the attendant, who lit one of the cigarettes for Officer Dollente. Officer Dollente walked out of the bathroom and smoked the cigarette in the Licensed Premises. He walked back to the table where Officer Thomas was and handed her the second cigarette, which Officer Thomas lit and smoked. Officer Thomas smoked her cigarette for several minutes, less than five minutes. Officer Dollente smoked his cigarette for five minutes. He was just

about finished with the cigarette when, a security guard approached Officer Dollente and told him he could not smoke cigarettes and that he could only smoke weed in the Licensed Premises. Weed is street vernacular for cannabis. Officer Thomas observed approximately 20 other patrons smoking tobacco cigarettes inside the Licensed Premises throughout the hour she was in the premises. Officer Thomas walked around the Licensed Premises and confirmed, based on her training and experience, the patrons were smoking tobacco cigarettes. She then walked to the bar, purchased a drink and returned back to her seat next to Officer Dollente. Officer Thomas did not see any security guard approach any of the other patrons who were smoking tobacco cigarettes.

38. Sgt. Nollner observed patrons smoking cannabis, cigarettes and using a machine to bake a liquid-synthetic product in the Licensed Premises. Sgt. Nollner ordered a tobacco hookah from a waiter. The waiter brought the hookah to Sgt. Nollner, who then smoked the tobacco hookah while a security guard stood approximately 10 to 15 feet away from him. The manager was walking around the Licensed Premises. No one stopped Sgt. Nollner from smoking the tobacco hookah, and no one stopped any of the patrons who were smoking cannabis and cigarettes in the Licensed Premises. Sgt. Nollner at some point entered the men's restroom, where he observed a gentleman, later identified as Jordie Mendoza, who was selling gum, loose single cigarettes, and other items. Sgt. Nollner purchased a single cigarette from Mendoza.

**(Count 25)**

39. At some point the LAPD take down team entered the premises. Mendoza was placed under custody. Officers Clark and Coreas conducted a search of Mendoza's person and backpack. Officer Clark recovered from Mendoza's wallet in his back pocket, a folded-up dollar bill containing a white powdery substance. Officer Clark also recovered from a small pocket in the back of Mendoza's backpack a single plastic baggy, which contained a white powdery substance, and which based on Officer Clark's training and experience is commonly used for narcotics sales. Based on his 17 years' as mostly a patrol officer and his narcotics experience and training in narcotics, both white powdery substances appeared to him to be powdered cocaine. Officer Clark did not test the substances. Officer Clark testified he had seen cocaine "dozens of times," and then estimated over 40 times. Officer Clark believed that cocaine could also be off-white in color. Officer Clark has never seen the test results of any substance he seized. He said the white powdery substances were booked into evidence to be tested later. Officer Coreas found in Mendoza's front left pocket a small brown glass vile. Upon inspecting the contents of the glass vile it contained a white powdery substance. Based on Officer Coreas' narcotics training and experience, a glass vile is a common way to hold cocaine and the white powdery substance appeared to him to be cocaine. Officer Coreas had seen cocaine while working in the field over 40 occasions. Officer Coreas did not remove the white powdery substance from the glass vile. Officer Coreas did not test the substance and was not

aware of whether it was tested. There was no evidence of any test results for any of the white powdery substances Officers Clark and Coreas found.

40. In the early morning hours of December 13, 2019, Agent Vergara entered the Licensed Premises with the LAPD take down team, to collect information regarding ABC violations. Upon entry Agent Vergara and LAPD officers began asking employees for their title/position at the Licensed Premises. Drew Verdugo identified himself to Agent Vergara as a bar liquor manager. Agent Vergara asked to access the locked manager's office. An LAPD Officer found the keys on Mr. Verdugo's person, which keys opened the manager's office and storage room. Agent Vergara observed someone with a hookah. Five people were arrested, including Jordie Mendoza mentioned above, manager Drew Verdugo, manager Sergio Blandino, and entertainers Evelyn Baquedano and Jennifer Quan. Agent Vergara left the premises after being inside for approximately 30 minutes.

#### **December 18, 2019**

41. On December 18, 2019, Agent Vergara emailed the Respondent's attorney of record, John H. Weston, with the Law Offices of Weston, Garrou & Mooney, confirming their telephone conversation of December 16, 2019. Agent Vergara attached a copy of the December 5, 2019, notice to produce, explaining that to date he had not received a written response and asked for production of the requested items. (Exhibit 11.)

42. On December 20, 2019, Attorney Jerome Mooney, with the Law Offices of Weston, Garrou & Mooney, replied to Agent Vergara's email, and produced (1) employee ID cards, passports, driver licenses; (2) 2018 tax form 1099-MISC and checks issued to Tony Verdugo (his employee file could not be located); (3) list of employees for 2019; (4) guard cards/ permits for exposed firearm cards; (5) payroll details for pay periods: (a) 10/20/19 to 11/2/19; (b) 11/3/19 to 11/16/19; (c) 11/17/19 to 11/30/19; (d) 12/1/19 to 12/14/19; and (6) December 13, 2019 LAPD citations issued to Sergio Blandino, Drew Verdugo, Jennifer Quan, and Evelyn Baquedano. Attorney Mooney indicated the law firm received the requested video and is in the process of reviewing it, that it was shown to a number of the Licensee's personnel including security guards, but no one was able to identify the individual/suspect. (Exhibit 12.) The list of employees identified Drew Verdugo's title as bartender, Sergio Blandino as manager, and Tony Verdugo as Operations Manager. The employee list included entertainers but did not include entertainers Jennifer Quan, Evelyn Baquedano and Ariel Rogers. Additionally, the list did not, understandably, include entertainers Daniele Melo and Daniele Silva, since they were arrested on October 10, 2019, and the notice to produce requested employees in November and December of 2019. (Exhibit 5.) Based on Agent Vergara's review of the LAPD reports he determined the unnamed people to be Respondent's employees.

43. On December 24, 2019, Agent Vergara emailed John Weston requesting confirmation that item (3) the list of employees provided on December 20, 2019, was an all-inclusive list. He also inquired into item (4) whether the security guards are Respondent's employees or if they work for an outside security agency. If the latter, he asked for the security agency information, including the contract to work at the Licensed Premises. (Exhibit 13.) Attorney Jerome Mooney replied explaining that everything provided was all the information the law firm had in its possession.

**December 26, 2019**

44. On December 26, 2019, at approximately 10:30 p.m., Agent Vergara visited the Licensed Premises to review and verify employee files, including the entertainers who were missing from the employee list. (Exhibit 13.) Several LAPD officers entered the premises with Agent Vergara. Agent Vergara recognized Drew Verdugo and identified himself as a police officer. Agent Vergara requested to see the employee files (including their employment applications, photographs, and a copy of rules 143.2 and 143.3 as required by condition 1 upon the Respondent's license) for all the entertainers, including Jennifer Quan, Evelyn Baquedano, Ariel Rogers, Daniele Melo and Daniele Silva. No employee files and none of the requested documents were at the Licensed Premises. Agent Vergara advised Mr. Verdugo that for a manager to be identified as the manager for the Licensed Premises that person must be an ABC qualified manager. Drew Verdugo informed Agent Vergara that Sergio Blandino is the ABC qualified manager. While Agent Vergara was inside the Licensed Premises he did not observe anyone smoking tobacco or cannabis inside the premises.

45. On December 27, 2019, Attorney Jerome Mooney emailed Agent Vergara and explained that Agent Vergara's email of December 24, 2019, to John Weston had been forwarded to Attorney Mooney, who would reach out the Licensee to get the information requested, that the Licensed Premises uses a separate security service, he wasn't not sure who, and that the list of employees should have been everyone shown on payroll for the two months requested, but that he would double-check. (Exhibit 14.)

**January 4, 2020  
(Counts 1, 29 through 31)**

46. On January 4, 2020, LAPD Officers Paredes and Monzon entered the Licensed Premises in an undercover capacity and sat at a C-shaped table<sup>10</sup> with the pole in the center. (Exhibit A-3.)<sup>11</sup> Security guards were in the Licensed Premises. Officer Monzon

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<sup>10</sup> Testimony established the platform was raised from the floor approximately three (3) feet.

<sup>11</sup> Officer Monzon testified that using the diagram on Exhibit A-1, the officers were seated at the stage marked "PP2" with his chair to the right of "PP2" and to the left of the table marked "T3."

observed several waitresses walking about, a security guard at the door<sup>12</sup> and a bartender at the bar. (Exhibit A-1.) While in the premises Officer Paredes, based on his training and experience, smelled cannabis being smoked. He determined the source of the cannabis smell came from multiple patrons whom he observed smoking cannabis. Officer Monzon, based on his training and experience, detected the strong odor of cannabis, the source of which he identified was emitting from a male patron smoking a lit, hand-rolled cannabis joint. Officer Monzon observed the male patron intermittently for a few minutes smoking the cannabis joint. The patrons did not try to conceal that they were smoking cannabis. No one intervened to stop the patrons from smoking cannabis in the Licensed Premises.

**(Count 29)**

47. At one point, two of Respondent's dancers, who were not identified (hereinafter referred to as Dancer 5 and Dancer 6), were dancing on the raised platform of the main stage, approximately where Officers Paredes and Monzon were seated. (Exhibit A-3.) Then Dancer 5 laid on the floor, while Dancer 6 sat on top of Dancer 5's genitalia area. Dancer 6 began grinding and thrusting, moving her hips and buttocks backward and forward, up and down on Dancer 5's pubic/genitalia region, while Dancer 5 thrust her hips upward toward Dancer 6, simulating sexual intercourse.

**(Counts 30 and 31)**

48. A few minutes later, a female Hispanic dancer (referred to as Dancer 7), wearing a very small bikini top and bottoms walked up to the officers' table and began dancing at the pole on the raised platform in the center of the C-shaped table. At one point, Dancer 7 jumped over the table, sat upon Officer Monzon's lap in a sideways position, then immediately rotated to face him, removed her bikini top exposing her bare breasts, and moved forward and pressed her bare breasts onto Officer Monzon's face. Dancer 7's bare breasts were touching the skin of the officer's face. No one attempted to intervene to stop Dancer 7 from placing her breasts on Officer Monzon's face. Officer Monzon, in response, in less than a second immediately pulled back and pushed her away to separate himself from Dancer 7. Dancer 7 replaced her bikini top over her breasts.

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<sup>12</sup> The witnesses testified that the door was between B1 and "BAR" on the diagram marked as Exhibit A-1.

**January 28, 2020  
(Counts 32 and 33)**

49. On January 28, 2020, at approximately 10:30 p.m., Agent Vergara with another agent visited the Licensed Premises and found the premises was not open for business but the front door was open and they entered. Before getting to the door Agent Vergara had observed at the entrance of the Licensed Premises, ropes sanctioning off a line of people, and at the front of the line a security guard to whom those people would present identification, walk a few steps through a metal detector, pay a cover charge and then enter. Agent Vergara later learned those people were lined up to compete for employment at the Licensed Premises. After entering the Licensed Premises Agent Vergara contacted Sergio Blandino (hereinafter referred to as manager Blandino) and informed him that the purpose of his visit was to view all the employee files including those for the dancers/entertainers. Manager Blandino advised Agent Vergara that the employees were having a meeting at that time. It appeared to Agent Vergara that it was a management meeting.

50. Manager Blandino led Agent Vergara to the rear of the Licensed Premises to the manager's office and voluntarily provided Agent Vergara with an Entertainer Employee Handbook dated January 1, 2020, consisting of 13 pages. At page two of the handbook it described the change in California law in that entertainers are considered employees and not independent contractors, it also included information on at-will employment and work schedules. (Exhibit 4 – is not a complete copy of the Entertainer Employee Handbook, and contains a copy of a title page and page 2.) Other sections of the handbook included policy prohibiting drug use, sale and possession, which are grounds for termination. The handbook includes a section stating that cigarette smoking is prohibited inside the Licensed Premises. Manager Blandino showed Agent Vergara some employee files, except there was no copy of rules 143.2 and 143.3 in those files. No personnel file or photo was provided for Daniele Melo, Daniele Silva, Ariel Rogers, Evelyn Baquedano or Jennifer Quan; nor was a copy provided of rules 143.2 and 143.3 for those entertainers. Agent Vergara handed manager Blandino a copy of Respondent's Petition for Conditional License and reviewed condition 1 with him, advising that a signed copy of rules 143.2 and 143.3 are required to be present in the personnel file for each entertainer. (Exhibit 9.) Manager Blandino acknowledged that the Respondent was not in compliance with that condition but agreed to get the Licensed Premises into compliance. Agent Vergara provided manager Blandino a copy of rules 143.2 and 143.3, whereupon manager Blandino placed a line with an "X" mark for the entertainers' signatures as well as a date line. At this point Drew Verdugo entered the manager's office. Both manager Blandino and Drew Verdugo spontaneously claimed that Ariel Rogers was never considered an employee because she had snuck into the Licensed Premises on November 16, 2019.

51. Agent Vergara noticed advertisements in the Licensed Premises for amateur night. Agent Vergara advised manager Blandino and Drew Verdugo that since the Respondent was advertising amateur night, any persons who were participating in an entertainment capacity should also be completing the personnel documentation in regard to rules 143.2 and 143.3.

52. Agent Vergara began exiting the manager's office and on his way through the Licensed Premises he noticed a person, who appeared to him to be a dancer, enter the Licensed Premises, later identified as Evelyn Martinez Hernandez (hereinafter referred to as Dancer Hernandez). Agent Vergara observed Dancer Hernandez to be very friendly and outgoing, greeting the security guards with hugs. Agent Vergara contacted Dancer Hernandez and asked her how long she had worked at the Licensed Premises, to which she replied she had been working for Respondent's Crazy Girls club for approximately one year and a half. Agent Vergara did not confirm in what capacity she was hired. Agent Vergara then requested of manager Blandino and Drew Verdugo to see dancer Hernandez' employee file, and what documentation they had for amateurs and entertainers. Agent Vergara followed manager Blandino and Drew Verdugo back into the manager's office and no personnel file for dancer Hernandez could be found.

53. Agent Vergara was able to determine that Ariel Rogers was at the Licensed Premises for amateur night on November 15, 2019. Agent Vergara was not able to determine whether Dancer Ariel left the premises after amateur night, returned or not. There was some sort of entrance/exit at the rear of the Licensed Premises that the LAPD had informed Agent Vergara about, but he had never investigated that entry point.

54. Based on Agent Vergara's extensive training and experience investigating gentlemen's clubs like the Licensed Premises, the current investigation, the revealing, scantily clad, provocative lingerie Evelyn Baquedano and Jennifer Quan wore while inside the Licensed Premises on the dates in question as the common attire entertainers/dancers in the industry wear, and review of the LAPD reports and discussion with LAPD officers he determined Evelyn Baquedano and Jennifer Quan were Respondent's employees or agents hired to work as entertainers/dancers.

55. While Agent Vergara was inside the Licensed Premises on January 28, 2020, he did not observe anyone smoking cigarettes or cannabis inside. After this visit Agent Vergara did not participate with or keep tabs on the LAPD's investigation operations at the Licensed Premises.

**August 8, 2021  
(Counts 44 and 45(2))**

56. On August 8, 2021, Los Angeles Police Department (LAPD) officers investigated two reports of assault with a deadly weapon and robbery at the Licensed Premises involving two victims (hereinafter referred to Victim 1 and Victim 2).

57. On August 9, 2021, Office Gonzalez spoke with the two victims involved regarding the incidents on August 8, 2021.<sup>13</sup> Victim 1 reported that he had been a customer in the Licensed Premises, which he exited a little after 4:00 a.m. and waited for the Respondent's valet to retrieve Victim 1's vehicle. The valet parked Victim 1's vehicle right outside the Licensed Premises. As Victim 1 was about to enter his vehicle, a black male pointed a handgun at Victim 1's face and told him to get to the ground. Victim 1, fearing for his life, complied and got to the ground, the suspect removed personal belongings from Victim 1's person, including a necklace, wallet, US currency, a Rolex watch and two cellular telephones, which Victim 1 valued at \$36,150. The suspect fled and Victim 1 got up, but when he heard gun shots fired, he went back to the ground. Victim 1 did not know the suspect and had not seen the suspect in the Licensed Premises. There was no evidence the suspect had been a patron in the said premises.

58. Victim 2 reported to Officer Gonzalez that he was a patron at the Licensed Premises. As Victim 2 was exiting the Licensed Premises he heard and saw a commotion and did not want to get involved in the disturbance, so he got into his vehicle, drove southbound on La Brea Avenue, at which time he immediately felt a sharp pain in his leg and realized he had been shot in the leg. Victim 2 continued south on La Brea Avenue, then turned west on Santa Monica Boulevard where he observed a Los Angeles County Sheriff vehicle, which he flagged down and advised the officers he had been shot. Victim 2 did not see the suspect who had shot him.

59. Officer Gonzalez left a voice message for Respondent's manager, Sergio Blandino, requesting video surveillance for the morning of August 8, 2021. He also requested video footage from another restaurant, The Nice Guy located at 401 North La Cienega Boulevard. Officer Gonzalez hoped the above-described incidents would be on video and hoped to obtain the suspect's description and vehicle. No video surveillance was ever produced to the LAPD. The LAPD never identified the suspect. There was no evidence the suspect was associated with the Licensed Premises.

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<sup>13</sup> The elicited testimony never identified the victims or suspect. As such, the victims will be identified with a number to distinguish them from one another.

**September 2, 2021  
(Counts 44 and 45(3))**

60. On September 2, 2021, several LAPD officers investigated shots fired and/or a possible 211/robbery in progress. Their investigation led them to Kaiser Hospital on Sunset Boulevard, and revealed that a male, Durham, and his two female friends, Hicks and Harrington, were out together at the Licensed Premises. At some unstated time, the three left the Licensed Premises. They got in Hicks' car and Hicks drove off. At some unknown time, Hicks dropped Durham off at his residence on Whitley Avenue and Franklin. After dropping Durham off Hicks and Harrington observed four to five males attack Durham as soon as Durham left Hicks' car. The suspects took Durham's personal belongings from him including jewelry, i-Phones and a duffel bag. He was bleeding profusely. During the assault one of the suspects pointed a gun at Harrington. The victims did not recognize the suspects. The officers investigating the incident received no information or evidence that the suspects were coming from, affiliated with, related, or had anything to do with the Licensed Premises. There was no evidence the incident was a follow-home robbery. The suspects were never identified.

**September 24, 2021  
(Counts 44 and 45(4))**

61. On November 25, 2021, LAPD Officer Wheat was working the desk at the Hollywood Division. Officer Wheat took a report from a male Victim 3 who reported that on September 24, 2021, he was a patron at the Licensed Premises. Victim 3 exited the Licensed Premises at 10:30 p.m. and walked north on North La Brea Avenue to his vehicle which was parked up the street and along Sunset Boulevard in front of Tacos El Gavilan located at 7070 Sunset Boulevard. As Victim 3 approached his vehicle, three suspects exited their vehicle, which was parked behind Victim 3's vehicle. The three suspects, who were all wearing all black clothing and black masks, approached Victim 3, one of the suspects pointed a gun at Victim 3, pushed him to the ground and pulled off Victim 3's necklace and fled the scene. Victim 3 said he waited two months to report the incident because he was afraid. There was no evidence the three suspects were seen anywhere near the Licensed Premises or that the Licensed Premises was involved in the incident in any manner.

**October 7 to 8, 2021  
(Counts 38, 44 and 45(5))**

62. On October 7, 2021, at approximately 11:00 p.m. LAPD Officers Alvarado, Thomas, Dollente, Martinez, Vest and Tse in an undercover capacity, paid a \$40 entry fee, were

patted<sup>14</sup> down by the Respondent's security guard and then walked through a free-standing metal detector at the entrance of the Licensed Premises. The LAPD Officers thereafter entered the Licensed Premises.

63. Officer Alvarado sat at a C-shaped table with raised platform and pole in the center. (Exhibit A-3) Respondent's dancer, later identified as Moriana Williams (hereinafter referred to as Dancer Williams) approached the officer's table and sat in the chair next to Officer Alvarado and engaged him in conversation. Dancer Williams offered, in exchange for \$1000, to give Officer Alvarado oral sex and perform "everything" which based on Officer Alvarado's training and experience in street vernacular means all sexual acts including oral, anal and vaginal sex. An Orgy was discussed in the context of the conversation between Dancer Williams and Officer Alvarado. Officer Alvarado was in the Licensed Premises from the evening of October 7, 2021, to October 8, 2021.

64. Officer Vest was not available to testify at the hearing because she was injured on duty. Officer Paredes testified as to the contents of the arrest report he prepared relating to Officer Vest's interactions with a dancer. That report states that "while Officer Vest was sitting next to the stage a female/black (later identified as Knowlin, Melta) [hereinafter referred to as Knowlin] approached Officer Vest and engage[d] in a conversation, Knowlin solicited Officer Vest [*sic*] oral sex for \$1000 dollars [*sic*]..." (Exhibit 6.) Officer Paredes was seated approximately 15 feet away from Officer Vest and Knowlin at the time, while loud, heavy-based music played preventing Officer Paredes from hearing any of the conversation between Officer Vest and Knowlin.

**(Count 37)**

65. Officer Paredes was seated at another table, approximately 15 feet away from Officer Vest. While seated Officer Paredes observed security guards around the Licensed Premises and Officer Paredes observed the Respondent's dancers permit approximately 10 to 20 other patrons to touch them all over the dancers' bodies, including their breasts. Officer Paredes saw at least one patron touch a dancer's genital area, and another patron touch another dancer's buttocks for a duration of between 5 to 10 seconds. The foregoing patron touching of dancers was pervasive throughout the Licensed Premises.

**(Count 41)**

66. Officer Tse and her partner Officer Dollente entered the premises at 11:00 p.m. in a plain clothes capacity posing as a couple and were seated at a table<sup>15</sup> on the east wall. They were the only patrons in the premises. Officer Tse observed manager Blandino

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<sup>14</sup> The security guard only patted down the male undercover officers.

<sup>15</sup> Based on the partial diagram in Exhibit A-1, most likely the table was either T1 or T2.

walking around the Licensed Premises. Officer Tse walked around the premises. She observed approximately five employees throughout the premises openly smoking tobacco cigarettes, for approximately six minutes, within sight of manager Blandino. Officer Tse observed manager Blandino walk right past the employees who were smoking cigarettes inside the premises without telling them to put out their cigarettes. No one else stopped the employees from smoking inside the Licensed Premises. Officer Tse determined the persons smoking to be employees because they were engaged in cleaning tables.

**(Counts 34 to 37)**

67. At around midnight the Licensed Premises was filled with patrons and dancers. Officer Tse observed dancers wearing see-through fishnet and thong underwear; some dancers only wearing pasties on their nipples and no top. Officer Tse observed dancers giving patrons lap dances, facing the patrons, allowing patrons' hands to touch their buttocks, making direct contact with their buttocks, for three to four minutes. Some dancers who were giving laptops on patrons were dancing on the patrons in a manner that they were rubbing their genital area on the patrons, simulating a sex act. Some dancers who only wore pasties on their nipples (and wore nothing else to cover their breasts) were giving patrons lap dances, and while facing the patron put their breasts on the patrons' faces, so that the patrons' faces were making direct contact with the dancers' breasts. Officer Tse also observed entertainers dancing on the stage wearing see-through fishnet and just underwear. While dancing on the stage they were rubbing their vagina in a manner that, based on Officer Tse's training and experience, appeared the dancers were masturbating. Manager Blandino was in plain view of these violations but did nothing to stop them from occurring.<sup>16</sup>

**(Count 40)**

68. On or about October 8, 2021, Officer Lopez, wearing a modified uniform with an LAPD identifiable tactical vest and his badge, entered the Licensed Premises with other officers. Officer Lopez' assignment was to inspect the bar area. By the time Officer Lopez entered the premises no drinks were being served to anyone and all operations had ceased since uniformed officers had entered and there were several officers in the bar area. Officer Lopez walked over to the fixed bar and examined the alcoholic beverage bottles there. He found, out of more than two dozen alcohol bottles, four (4) bottles of alcohol in the bar area which were open and contained debris, such as small hair-like particles and fruit flies. He did not observe anyone pour, sell, serve, furnish or give away from the said four bottles. He observed evidence of empty glassware and half-finished alcoholic beverage drinks on the bar counter and tables to indicate people had been

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<sup>16</sup> Based on Officer Tse's testimony. (Exhibit 15 – copy of Officer Tse's arrest report written on October 8, 2021).

drinking alcohol in the premises but did not inspect them to see if there was any debris that matched that of the said bottles. Officer Lopez handed the four bottles to Officer Tse and the bottles were booked at LAPD Hollywood Division Property Locker. Officer Lopez was not sure if any photos or testing, advanced or otherwise, of the bottles was performed. There was no evidence that any person in the Licensed Premises appeared to be ill or suffering from some sort of health complaint, poisonous contaminant or otherwise. The four bottles were not presented at the hearing, nor were any photographs thereof.

**November 7, 2021  
(Counts 44 and 45(6))**

69. On November 10, 2021, Officer Habibi was working the LAPD Hollywood Division front desk and took the statements from three victims (Tiffany Chantharangma, Jason Hursey, and Annabelle Muljana), reporting an assault with a deadly weapon and robbery. On November 7, 2021 at approximately 2:00 a.m., after Tiffany Chantharangma, Jason Hursey, and Annabelle Muljana had left the Licensed Premises they walked through the neighborhood to Annabelle's vehicle at the 7000 block of De Longpre Avenue, approximately one-quarter mile from and not near the Licensed Premises, when a silver Mercedes GLE coupe SUV or GLC coupe with tinted windows and no license plate drove towards the three victims, stopped the vehicle, and three masked, armed suspects jumped out of the vehicle and demanded their belongings. One suspect grabbed Annabelle's chain from her neck. Another suspect chased after Tiffany, grabbed her from behind, held her in a chokehold, held a gun to her back and grabbed two diamond chains from her neck. Two of the suspects then attacked Jason, one of them pistol-whipped Jason in the face, took his chain and bag which contained his license and credit card.<sup>17</sup> There was no evidence that the suspects were patrons of, associated, affiliated with or related to the Licensed Premises.

**November 20, 2021  
(Counts 44 and 45(8))**

70. On November 20, 2021, LAPD Hollywood Division Officer Walker and his partner, Officer Aguilar, at the start of their patrol watch were advised to look out for a white, Ford, two-door Mustang used in a follow-home robbery which occurred at Sunset Boulevard and La Brea Avenue near the Licensed Premises. The Upland Police Department had posted a robbery flyer that the white Mustang vehicle was stolen. Officer Walker and his partner were assigned extra patrol in the area to provide high visibility

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<sup>17</sup> The victims valued their belongings as follows: Tiffany's two white gold and diamond chains at \$600; Jason's white gold diamond chain at \$50,000 and license at \$35; Annabelle's necklace \$1,000.

traffic enforcement to reduce crime due to robbery, narcotic sales and recent shootings in the area. They were traveling eastbound on Sunset Boulevard approaching La Brea Avenue, when they observed a 2015 white, Ford Mustang, two-door, convertible, black top traveling eastbound on Sunset Boulevard at a high rate of speed, not near the Licensed Premises. The vehicle matched the description posted by the Upland PD. The vehicle quickly made an unsafe U-turn across double-yellow lines and parked in front of 7051 Sunset Boulevard, blocking a driveway. The officers positioned their black and white vehicle behind the Mustang and attempted to initiate a traffic stop. As the officers got out of their patrol unit, the driver of the Mustang accelerated at a high rate of speed and made a northbound turn onto La Brea Avenue. The officers attempted to catch up with the Mustang and briefly lost sight of it. They continued northbound on La Brea but when they approached the intersection of La Brea Avenue and Hollywood Boulevard they spotted the Mustang vehicle, which had collided with a palm tree and come to a complete stop on the embankment on the southeast corner. Two occupants were in the vehicle, the driver, later identified as Jordan Murray, and a passenger, later identified as Brenton Johnson. The officers requested back up, airship and a supervisor.

71. The Hollywood Division Vice unit had been conducting an operation in the parking lot across from the Licensed Premises. Sergeant Holguin from that unit responded to assist with Officers' Walker and Aguilar's investigation. When sufficient back-up arrived the officers took suspect Jordan Murray (hereinafter referred to as suspect Murray) into custody. While suspect Murray was being taken into custody at the scene, he spontaneously stated to Sergeant Holguin that he had just left Crazy Girls (the Licensed Premises). While Officers Walker and Aguilar were securing the vehicle, they observed a loaded blue steel semi-automatic handgun and black/white ski mask laying on the floorboard of the front driver's seat in plain view and in direct reach of the driver. Officers safely secured the firearm. Suspect Murray was transported to the Hollywood Division station, he was given his Miranda warnings, which he acknowledged. Suspect Murray then stated that he was in Hollywood planning to go to the Licensed Premises when he saw two women walking across the street. He claimed he was planning to speak to the women when police attempted to pull him over. He had been drinking and knew he had a firearm in the car. He claimed he drove away from police because he was scared. Officer Walker prepared a report an hour or so after beginning the process at the station. (Exhibit 19.) There was no evidence that led Officer Walker to believe that suspect Murray was associated with or in any manner connected with the Licensed Premises.

**November 27, 2021**  
**(Counts 44 and 45(9))**

72. On November 27, 2021, Officer Walker and his partner Officer Aguilar were on patrol when they responded to a radio call of shots heard near the Licensed Premises. At

approximately 5:00 a.m. the officers arrived at the Licensed Premises, they took statements from three witnesses, security guard Jason Cecil (hereinafter security Cecil), security Joe Cruz (hereinafter security Cruz), and customer Michael James (hereinafter customer James).

73. Both security guards said that at 3:45 a.m. they were working at and standing in front of the Licensed Premises, on the north side of the business, when they observed a black male and female running northbound towards them. There was no evidence they were customers of the Licensed Premises. Facing southbound, looking past the couple, they observed a black male, wearing a red hoody and black facemask, firing shots in the air, after which the suspect jumped into a four-door, orange, Crossover Sedan, and fled the location. There was no evidence connecting the suspect to the Licensed Premises. The security guards said they then hid behind a wall and security Cruz contacted the police to report the incident of shots fired.

74. Customer James stated that at 3:45 a.m. he was walking out of the Licensed Premises when he observed another unnamed customer, wearing jewelry, walking southbound towards his vehicle when two black males wearing ski masks exited a vehicle and approached the unnamed customer with semi-automatic handguns and attempted to take the unnamed customer's jewelry, but he resisted. Suddenly a black male, who was standing in the parking lot at 1427 North La Brea Avenue, just south of and immediately adjacent to the Licensed Premises, started firing rounds from a handgun into the air to distract the suspects from the unnamed customer, and all parties fled the location. Officers Walker and Aguilar canvassed the area and determined that shots were not just fired in the air; that multiple vehicles at the scene were struck and had what appeared to be bullet holes. The officers recovered one live round, eight casings and one fired bullet at the scene. Two spent casings and one live round were recovered from the parking lot at 1427 North La Brea Avenue. One spent casing was recovered from the sidewalk in front of 1427 North La Brea Avenue. One fired round was recovered from the tailgate of a Ram truck, which was parked on the west curb of North La Brea Avenue just south of the Licensed Premises. Five spent casings were recovered from the sidewalk where the Ram truck was parked. The parking lot at 1427 North La Brea Avenue is used for the Licensed Premises' customer parking. All evidence was booked at Hollywood Division Station. Officer Walker prepared a report as soon as their investigation was completed, approximately one hour to two hours after arriving at the scene. (Exhibit 20.)

**May 15, 2022**  
**(Counts 42, 43, 44, 45(10))**

75. On May 15, 2022, at approximately 4:30 a.m., Officer Cabrera and his partner Officer Orlick were in full police uniform driving a marked black and white police vehicle when they received a radio call of shots fired at La Brea Avenue and Sunset

Boulevard by the Licensed Premises. The officers pulled up to the valet curb across the street from the Licensed Premises. There was no ongoing shooting or evidence of a disturbance or violence. Upon arrival the officers were approached by manager Blandino. Officer Cabrera identified himself as a police officer and asked him if a shooting had occurred at the Licensed Premises. Manager Blandino said that he was unaware of a shooting that occurred at the Licensed Premises and used his cell phone to pull up the "Citizen App"<sup>18</sup> to help the officers with the whereabouts of the shooting. With the use of the App, manager Blandino directed the officers southbound on La Brea towards Fountain Avenue, showing the officers the Citizen App on his cellular telephone, saying the shooting possibly happened south of the location. The officers spoke to several unidentified employees from the Licensed Premises; the employees were valet drivers for the Licensed Premises, wearing their valet jackets. Officer Cabrera asked the valet employees if there was a shooting in that area and they directed the officers south of the Licensed Premises. The officers conducted a canvased search, driving their marked vehicle southbound, east and west of the Licensed Premises looking for any evidence, including but not limited to casings on the ground or any people who needed their help or possible property damage from the possible shooting. The direction that manager Blandino and the Licensed Premises' valets had directed the officers to came up negative, so the officers redirected their search back to the Licensed Premises.

76. The officers arrived at the Licensed Premises, exited their police car and immediately saw and recovered a grouping of eight 9mm "Luger" brass casings located on the west curb of La Brea Avenue in front of 1427 North La Brea Avenue, and a grouping of five 9mm "Luger" brass casings, which were located in front of 1416 North La Brea Avenue. Another five 9mm "Luger" steel casings were recovered in front of 1419 North La Brea Avenue.

77. The casings were evidence that rounds had been fired. Officer Cabrera spoke again with manager Blandino asking if he was aware of the shooting. Manager Blandino said he was unaware of a shooting that occurred near the Licensed Premises. Officer Cabrera observed security cameras at the Licensed Premises and asked manager Blandino to show him the Respondent's security footage of the incident, which manager Blandino agreed to do. Manager Blandino escorted the officers to the manager's office where he showed them the security footage.

78. The footage revealed the shooting. It depicted two suspects arrive at 1433 North La Brea Avenue in their vehicle (a white, four-door sedan) at approximately 4:25 a.m. Both suspects exited the vehicle and engaged in a verbal dispute with the valet. The valet driver was later identified as Joseph Rodger Sandoval (hereinafter referred to as valet Sandoval). Valet Sandoval confronted the suspects and used his flashlight to flash a light

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<sup>18</sup> A mobile app citizens use to follow police activity around the area.

at the suspect's vehicle. Both suspects and valet Sandoval continued to argue. One of the Licensed Premises' security guards, later identified as Rahkeim Shabazz Crawford (hereinafter referred to as security Crawford), approached the suspects. Security Crawford and the suspects engaged in a confrontation. Both suspects entered their vehicle and began to drive southbound on La Brea Avenue. Suspect 1 entered the rear passenger door of the vehicle, rolled the window down and fired an unknown number of rounds toward the direction of security Crawford, who took cover and returned fire, firing approximately five times towards the suspects in their vehicle. The suspects' vehicle exited the camera angles, and security Crawford fired an additional five to eight rounds towards the suspects' vehicle.

79. Officer Cabrera radioed for security Crawford. Valet Sandoval had flagged the officers down at that point. Officer Cabrera took their statements which were consistent with the security footage.

80. Valet Sandoval stated he was involved in an argument with the suspects because he saw them harassing an unidentified female/dancer from the Licensed Premises and he told them they had to "keep moving" because they were blocking traffic. The suspects became upset because valet Sandoval flashed them in the face with his flashlight and the altercation escalated from there. Sandoval was unsure in what positions the suspects entered their vehicle, but he observed the vehicle flee southbound on La Brea Avenue. Once the shooting began valet Sandoval took cover behind the wall and did not see what happened after that.

81. Security Crawford was armed with a Glock 9, semi-automatic 9mm pistol, which is the same caliber of the casings recovered. At the time security Crawford was employed as a third-party armed security guard at the Licensed Premises. Security Crawford was wearing a uniform that clearly distinguished him as security. Security Crawford stated he observed the suspects getting aggressive with valet Sandoval, at which point he approached the suspects to assist valet Sandoval and security Crawford became involved in a verbal argument with the suspects himself. The suspect driver and passenger entered their vehicle, the suspect passenger rolled the window and shot at security Crawford, who took cover and returned fire, shooting approximately five times. As the vehicle continued to drive southbound on La Brea security Crawford came out of cover and shot more rounds at the vehicle.

82. Manager Blandino and Respondent's employees were cooperative when speaking with the officers. Officer Cabrera believed that had security Crawford, valet Sandoval and manager Blandino been more forthcoming about the shooting upon the officers'

initial arrival Officer Cabrera could have placed a detailed radio broadcast immediately rather than after the delay of being directed down the street.<sup>19</sup>

**(Sergeant Holguin/Background)  
(Counts 44 and 45)**

83. LAPD Sergeant Holguin appeared and testified at the hearing. He supervises and oversees the Hollywood vice unit in the Hollywood Division of LAPD. The Hollywood Division covers an area of 17 square miles in Los Angeles, which runs from Normandie Avenue on the east to approximately Melrose on the south, to approximately Doheny on the west, and Mulholland Drive on the north. Compared to other LAPD divisions in Los Angeles the Hollywood Division is one of the highest in terms of calls for service in Los Angeles.

84. There are four watches or shifts in the Hollywood patrol, with two watches in the evening, watch 3 and watch 7. Watch 3 starts at 6:45pm and ends at 6:45 a.m. the next morning. Watch 7 starts at 5:00 p.m. and ends at 3:00 a.m. the following morning. Each patrol plan has a minimum number of officers they try to deploy each night to meet the deployment plan, which is the necessary minimum officers out in force to respond to calls throughout the division at night. Watch 3 is supposed to deploy 10 units, but with the lack of personnel generally seven to eight units are deployed in the evening. Watch 7 is supposed to deploy five units,<sup>20</sup> but due to lack of personnel it usually deploys three to four units.

85. The Hollywood Division has several specialized units, the Gang Enforcement Unit (GED), the Narcotics Enforcement Detail (NED), the Vice unit, the Hollywood Entertainment District (HED), which is similar to a special problems unit that works Hollywood between Vine and La Brea, where the Hollywood Walk of Fame is, and Hollywood & Highland (known as the Hollywood entertainment district and a tourist area).

86. The Vice unit investigates crimes of prostitution, human trafficking, gambling, and alcoholic beverage investigations (regulating and investigating any complaints at licensed premises and verifying their ABC<sup>21</sup> paperwork is in order). The Hollywood Entertainment District unit is deployed within the Hollywood entertainment district answering radio calls, conducting high visibility enforcement and crime suppression. The Gang Unit investigates gang crimes, monitors, and polices gangs within the Hollywood Division. Additionally, there is the Special Investigations Section (SIS) unit

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<sup>19</sup> Officer Cabrera prepared a report, 30 minutes after leaving the call, based on the officers' investigation. (Exhibit 16.)

<sup>20</sup> A unit is one black and white LAPD vehicle with two officers in it.

<sup>21</sup> Department of Alcoholic Beverage Control.

which covers the entirety of Los Angeles. The SIS investigates and tracts down the worst criminals within the city of Los Angeles.

87. The LAPD investigation into the Licensed Premises was prompted in party by complaints of prostitution activity occurring within the Licensed Premises. The investigation began in September of 2019, and initially Hollywood Vice was the sole unit handling the investigation in the Licensed Premises. There were 13 calls for service between September and December 2019. After several investigations a take down was conducted at the Licensed Premises on December 12, 2019, and several arrests were made, including manager Blandino, who was notified of the various illegal activity LAPD officers observed at the Licensed Premises during their investigation. Due to the COVID-19 Pandemic the Licensed Premises closed from approximately March 2020 until July 2021, at which time the LAPD closed down its investigation of the Licensed Premises.

88. In August of 2021, the LAPD Vice unit began a second round of investigations into the Licensed Premises because there were more calls for service, including a robbery in the area, and complaints of prostitution at the Licensed Premises. The Vice unit's investigations found multiple prostitution and narcotics violations at the Licensed Premises between August 2021 and December 2021. There were 22 calls for service during that time period, including several shootings and robberies connected with the Licensed Premises.

89. After several notable follow-home robberies<sup>22</sup> and shootings outside of the Licensed Premises, and finally a homicide inside the Licensed Premises, the Deputy Chief of Operations for the West Bureau, which the Hollywood Division falls under, ordered that all specialized units begin dedicating their resources to the Licensed Premises to prevent further violent robberies or assaults within that area.

90. In December 2021 other Hollywood Division specialized units were assigned to investigate the Licensed Premises including the Hollywood gang unit, narcotics unit, ATD units, SIS unit, the citywide gang and narcotics surveillance units, as well as patrol units to supplement when specialized units were not able to work. All of the aforementioned units worked on the investigation from December 2021 through October of 2022, which required surveillance coverage seven days a week while the Licensed Premises was open, generally from 10:00 p.m. to 4:00 a.m. To split the coverage

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<sup>22</sup> An example of a follow-home robbery is when a victim is identified within a licensed premises because the victim usually will have high end jewelry such as a Rolex watch or gold necklaces, and once the victim is identified in the premises suspects inside will notify suspects outside of the description of the victim when they leave, so the outside suspects follow the victim home to their residence and either rob the victim in their driveway or follow them into their residence and rob the residence as well.

between all the units a 28-day deployment calendar was devised and sent to all the involved units listing when they were assigned to monitor the Licensed Premises. For specialized units they worked 10-hour days, resulting in 15 work-days a month.

91. The Vice unit carried the brunt of the workload, dedicating seven days to cover surveillance of the Licensed Premises, with the other units dedicating five days, and patrol supplementing any other days which were left uncovered. The Vice unit dedicated at least half of a work month exclusively to the investigation and surveillance of the Licensed Premises over 10 consecutive months. Initially Vice assigned 14 officers to the investigation and near the end were down to 11 officers. Sergeant Holguin generally would send out four officers, and when he could afford it, six officers at a time. At other times the entire unit would be sent out depending on the time of the week. For example if it was a Thursday or Friday night when it was exceptionally busy the Vice dedicated its entire unit to work that entire night. The Hollywood Entertainment District unit initially had 20 officers, but were losing many officers during those months, and reduced their number to 12 officers dedicated to investigate the Licensed Premises. The HED would deploy a minimum of two units (four officers). The gang unit initially dedicated two officers and one sergeant and near the end added a third officer, and in October added a fourth officer. The gang unit was so depleted with officers that their entire unit was dedicated to surveillance/investigation of the Licensed Premises. The narcotics unit initially had one supervisor and two investigators and toward the end of the investigation had a total of three officers. The entire narcotics unit was dedicated to surveillance when it came their time. The patrol units did not conduct surveillance, instead they performed high visibility patrol dedicated to that one block area around the Licensed Premises, circling, looking for crime occurring, or they would often park across the street from the Licensed Premises and be a high visibility patrol unit in hopes to deter crime. The patrol unit often took over for the specialized units because the specialized units' shifts ended at 2:00 a.m., which left two hours not covered; to avoid the Hollywood Division having to pay overtime for specialized units to remain and continue watching the location.

92. The SIS unit was heavily involved in the 11-month investigation, with the first three months of their mission surveilling the Licensed Premises to try to identify a pattern of suspects who may be engaging in the follow-home robberies. There is no evidence that any of Respondent's employees were involved in the follow-home robberies.

93. Between December 2021 and May 2022, there were 82 calls for service at the Licensed Premises.

94. Sergeant Holguin said that when the four specialized units (GED, NED, Vice and HED) had to dedicate their time to surveilling the Licensed Premises they were not able to conduct any other investigations. Sergeant Holguin said that the ordered coverage of the Licensed Premises during the 11-month period had a large impact on the Hollywood

Division and community. The gang unit was already depleted in resources in having to investigate the Licensed Premises five days out of the month, which meant five days they could not police the dangerous gangs within the Hollywood Division. For the narcotics unit that meant five to six days a month they were not able to investigate drug trafficking throughout the Hollywood Division. For the Hollywood Vice unit it was seven days they were unable to investigate prostitution, human trafficking and other licensed premises becoming problem locations. The ATD Hollywood Entertainment District had to pull units to sit in front of the Licensed Premises, which meant that several black and white units no longer were conducting crime suppression and high visibility patrol along Hollywood Boulevard where there are is a whole other set of problems and crimes occurring. The Hollywood patrol units, along with the entire LAPD patrol, are very depleted in resources and personnel, which meant that every unit they had to pull away was one unit that was not able to answer radio calls generated by community members or residents in the area; meaning it took that much longer for other units who are not dedicated to that area to respond to those radio calls. The ordered surveillance on the Licensed Premises for the 11-month period created a massive drain on law enforcement and its resources, preventing them from policing the rest of the Hollywood Division. After October of 2022, the added specialized units ceased surveillance due to the drain on law enforcement resources throughout the 11-month investigation. The LAPD as a whole and especially the Hollywood Division's personnel steadily decreased, and it became incredibly difficult to continue that type of deployment schedule. High command weighed where they needed to deploy their resources more effectively at that time.

95. Sergeant Holguin personally spoke with manager Blandino during the multiple Hollywood Vice investigations at the Licensed Premises. In December of 2021, Sergeant Holguin's officers were conducting a valet and/or guard card check<sup>23</sup> when manager Blandino came outside and asked Sergeant Holguin what he could do to help law enforcement out with the problems he was aware were occurring at the Licensed Premises. Sergeant Holguin suggested the Respondent increase security and close at 2:00 a.m. or earlier, because the fact the Licensed Premises was open until 4:00 a.m. created a law enforcement problem in the Hollywood Division. Every other licensed premised bar, restaurant and club in the Hollywood Division closed at 2:00 a.m. and the Licensed Premises was the only premises open until 4:00 a.m. When other establishments close at 2:00 a.m. the patrons begin showing up at the Licensed Premises at 2:15 a.m. and 2:30 a.m. Sergeant Holguin said one type of crowd leaves the Licensed Premises at 1:30 a.m. and an entirely different crowd shows up to stay until closing. The Respondent never closed earlier and failed to adhere to Sergeant Holguin's

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<sup>23</sup> A guard card check is performed to verify the security guards have the proper license to work as a security guard and if they are armed that they have the proper firearms permits.

recommendation to do so to help alleviate the law enforcement burden for the LAPD Hollywood Division.

**(Sergio Blandino)**

96. Sergio Blandino appeared and testified at the hearing. Mr. Blandino said he began working for Three Group, Inc. at the Licensed Premises in 2017 as the VIP host. In December of 2019, Mr. Blandino became the general manager and at some unknown date<sup>24</sup> to the present his title became manager. As the general manager he was at the Licensed Premises daily from 10:00 p.m. to 4:00 a.m., except Thursday and Wednesday. He testified that he never saw any of Respondent's dancers engage in sex with a customer, dancer or other person while on the Licensed Premises. He claimed the Respondent never permitted smoking of tobacco on the Licensed Premises or use of drugs, including cannabis. He said the policy if someone is smoking cannabis, they have them put it out and put it away. He said any tobacco smoking needs to be outside on the smoking patios. Mr. Blandino said there are two smoking patios, a patio in front of the Licensed Premises (referred to as the front patio) and another patio on the side of the premises along a catwalk (referred to as the catwalk patio), which is outside of the structure of the premises' building. There are three doors that connect the catwalk patio and front patio to the interior of the Licensed Premises. He said the doors are open the majority of the time and then said they're always open. When asked why they leave the doors open he said because they have a haze machine inside, it's an easier way to exit, and the clubs gets a bit warm so they leave the door open until it gets too cold, depending on the weather. He said the haze machine blows what he described as fog through the Licensed Premises for the LED laser light show, with strobe lights of different colors; the haze enhances the lighting inside the premises. There was no evidence when the haze machine was installed or when the light show occurs. Mr. Blandino said the smell of people smoking on the smoker's patios outside filters back into the club and is a fairly common occurrence.

97. Respondent's Entertainer Employee Handbook is 30 pages in length and covers policy on at-will employment, equal employment opportunity, work and break periods, dress code and appearance, dancer conduct, prohibition of drugs and smoking on the premises, rules relating to alcohol, payroll deductions, sick leave, personnel records, stage and lap dances, tip policy overtime, pay periods, sexual harassment, courteous service. (Exhibit D.) The handbook includes acknowledgement pages that employees are required to sign. Employees sign a separate policy on "Possession and Use of Drugs and Alcohol," which prohibits drug use, possession, distribution, and sales on the Licensed Premises, and provides for drug and alcohol testing. (Exhibit E.)

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<sup>24</sup>Mr. Blandino testified at one point that he was not general manager on January 26, 2020, however he did not testify to the date he stopped working as general manager.

98. Mr. Blandino said that the Respondent's dancers are supposed to wear two layers of wardrobe. On their bottoms, they should wear underwear at least two inches wide and fishnet stocking over the underwear to cover their bottoms. Above their waste should be a full covered bra with another layer, such as a fishnet, or just a top, however underneath every dancer should always wear pasties to cover their areolas. To ensure the dancers comply with the dress code when they exit the dressing room they are supposed to check in with a "house mom" and when they are on the floor they are to check in with the floor/promotional manager, Mike Jay, to be approved to be on the floor. The dancers are supposed to remain in that state of dress while they are performing. He claimed customers are not allowed to touch the dancers on their breasts, buttocks or crotches. If the staff (including the security, bus boys, waitresses, floor manager, and host) see any improper touching occurring they are to warn the customers not to do so. Mr. Blandino said it's very hard to catch everything or any touching that goes on but they try to stop it as much as possible. When asked whether the Respondent employed at the Licensed Premises a person to sell cigarettes Mr. Blandino replied, "No, no we don't allow that but no we don't know sir." Respondent employs a bathroom attendant whose job entails giving out gum, hand towels, cleaning spills and the bathroom stalls, and provides colognes, candies, and mints for the customers. Mr. Blandino said that to his knowledge no employee brought a narcotic powder, cocaine-like substance onto the Licensed Premises, and if he found any employee with such substance, he would fire them immediately and have them escorted off the premises. He said that he did fire someone for illicit drug use in the past, so the policy is enforced.

99. On January 26, 2020, at management's request, Mr. Blandino provided to the operations manager, Tony Verdugo, a handwritten statement, "I never met Joyce Howard. She snuck into the club while she was in there she solicited a under cover [sic] cop and got arrested." (Exhibit G1.)

100. Tony Verdugo stopped working for the Respondent at the Licensed Premises, at some unstated date. After Tony Verdugo left employment, Mr. Blandino became the general manager at the Licensed Premises in December of 2019. Mr. Blandino said that prior to 2019 the Respondent had problems in the Licensed Premises with illegal activity, prostitution and persons smoking hookahs.

101. On July 16, 2021, when the Licensed Premises reopened after COVID-19 closures, Mr. Blandino made some changes in operations at the Licensed Premises, including that he (1) "cleaned up a lot of the clientele" by changing the trap music to top 40 music, to make the clientele more of a diverse crowd; (2) changed the valet parking and how it is run, extending more of the cones into the street; (3) changed the front of the club, acquired extra barricades/ropes; (4) hired a contract security company to do secure pat downs and secure more of the Licensed Premises; (5) lowered the music volume, upgraded the DJ mixer and the receiver for the light show to maintain the levels. Mr.

Blandino claimed that he implemented every suggestion by law enforcement to make changes to ensure the Licensed Premises went on without breaking any laws or disturbing the peace; obtaining extra security to ensure the safety of clientele and staff.

102. While Mr. Blandino served as general manager law enforcement conducted on-sale premises inspections resulting in no violations observed on August 5, 2021, and December 26, 2019. On January 25, 2023, LAPD found violations of litter on the exterior patio, Los Angeles Department of Building and Safety violations, non-conforming certificate of occupancy, and adult entertainment in violation of LAMC 12.70(c). (Exhibit I-1 LAPD On-Sale Premises Inspection dated 08/05/21; Exhibit I-2 Department of ABC On-Sale Premises Inspection Sheet dated 12/26/19; Exhibit I-3 LAPD On-Sale Premises Inspection dated January 25, 2023.)

103. Mr. Blandino said his memory was “a bit blurry” but he recalled the shooting incident on May 15, 2022. He said at the time the shooting occurred, Mr. Blandino did not hear or have direct knowledge of it as he was in the manager’s office in the back of the Licensed Premises with his door closed. A waitress knocked on his door to ask if he knew what was happening and said there was an incident outside. At that point Mr. Blandino said he walked to the front of the club and went outside to find everything in chaos. It took a couple of minutes for things to die down. He said a valet told him an incident took place down the street from the Licensed Premises and 30 seconds later LAPD came in their vehicles. Mr. Blandino said employees did not tell him about a shooting outside the premises prior to the police arriving. He said, that after the fact, he learned where the shooting really occurred and testified, “it was three businesses from Crazy Girls which is southbound on La Brea then it had finished down the street on Delongpre, which is maybe 3[00,] 400 feet away, a block radius.”

104. Mr. Blandino said that the alcohol the Respondent sells and dispenses for beverages at the Licensed Premises is routinely, on a nightly basis, inspected for bugs or deleterious debris every night at the beginning of the shift.

105. The corporate officer and stockholder of Three Group, Inc. is Marcel Ezerzer. Mr. Blandino refers to her as Michelle Mudarris. Mr. Blandino said Ms. Ezerzer is “never at all” at the Licensed Premises.

106. Mr. Blandino claimed that since the violations at issue, in the First Amended Accusation, the Licensed Premises has been operating in compliance with the law.

**(Detective Thompson)**

107. LAPD Detective Thompson appeared and testified. In 2017 he was a vice investigator assigned to the Hollywood Division of LAPD. He began investigating

activity at the Licensed Premises in February of 2017, after a fight broke out and a shooting occurred between patrons of the Licensed Premises. At that time, Detective Thompson participated in an undercover investigation of the Licensed Premises. In March of 2017, he had a meeting with the corporate officer/stockholder Marcel Ezerzer and her attorney, John Weston, informing them of the violations the LAPD's undercover investigation found at the Licensed Premises and the arrests for prostitution of Respondent's dancers/entertainers. Detective Thompson further informed them of the statements the dancers gave to LAPD that management encouraged them to commit prostitution while working at the Licensed Premises. He informed them of the indoor smoking violations including purchases by undercover officers of tobacco cigarettes from the bathroom attendant, which officers smoked along with smoking tobacco hookah in the Licensed Premises.

108. Attorney Weston advised Detective Thompson that Sergio Blandino would be appointed the general manager and main point of contact for the Licensed Premises as it relates to interactions going forward with the LAPD. The Respondent informed Detective Thompson that modifications to the existing surveillance system would be undertaken, additional security personnel employed along with other security features such as metal detecting wands to ascertain if oncoming customers were armed with any kind of weapon. The Respondent made some changes in 2017 and 2018, by contracting with a security guard company known as Southwest Patrol, and adding a relatively robust security force that was carried over into 2019.

109. Since May of 2022, Detective Thompson conducted four inspections of the Licensed Premises: in September and October of 2022, January 25, 2023, and March 17, 2023. On January 25, 2023, Detective Thompson spoke to Sergio Blandino of the continuing violations at the Licensed Premises including: (1) cannabis smoking in the Licensed Premises, (2) Los Angeles Department of Building Safety (LADBS) violations, (3) non-conforming certificate of occupancy, (4) adult entertainment performances in violation of Los Angeles Municipal Code (LAMC) section 12.70(c), (5) other municipal/vehicle code violations including unlawful electrical, plumbing and mechanical work, as well as unpermitted construction of the west side of Licensed Premises' building (manager's office, liquor storage room, dressing room, VIP room), and privatization of the sidewalk, commandeering the traffic lane closest to curb, blocking southbound traffic, at 1433 North La Brea Avenue to 1425 North La Brea Avenue with a mobile valet stand, cones/barricades, attendants and patrons<sup>25</sup>. (Exhibit I-3.) Detective Thompson testified that smoking violations within the Licensed Premises have been occurring from 2017 until at least January 25, 2023.

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<sup>25</sup> LAMC sections 41.18a, 62.61b, 56.08e, 56.11, and 56.12; Vehicle Code sections 21464 and 21465.

110. In February of 2023 there were more calls for service to the Licensed Premises. The LAPD conducted further undercover operations at the Licensed Premises and found more violations in March of 2023. Detective Thompson prepared a supplemental report detailing the violations the LAPD found, including on March 17, 2023, including after-hours alcohol service and the smoking of tobacco and cannabis cigarettes all in full view and in the presence of the Licensee and manager Blandino. (Exhibit 21.) During Detective Thompson's inspection on March 17, 2023, the Licensed Premises still had the same violations and non-compliance issues from January 25, 2023.

111. On March 17, 2023, at 1:15 a.m., LAPD Officers Hernandez, Galindo and Sagbigsal entered the Licensed Premises in an undercover capacity, posing as customers. They ordered a 750-milliliter bottle of Patron Silver tequila, which they were served and purchased. At approximately 1:45 a.m. one of Respondent's employees came to their table with a trash can, and water-filled 16.9 ounce plastic water bottle. The employee emptied the water from the plastic bottle into the trash and poured the remaining contents of the officers' tequila bottle into the emptied water bottle, tore the label from the water bottle and provided it to the officers. (Exhibit 22 – color photo of employee pouring tequila into empty plastic water bottle over a trash can.) The employee explained he was not taking their alcohol, but they needed to hide consumption of alcohol after 2:00 a.m. in case the Licensed Premises was inspected by police. The employee told the officers he tore off the label so the officers knew the bottle contained alcohol, and they could continue to consume alcohol after 2:00 a.m., if they drank from the plastic bottle containing the tequila. The employee went to other patrons' tables and did the same thing, transferring the contents of their liquor bottles into unlabeled, plastic, empty water bottles. The employee removed all cups and other alcohol containers from the officers' and patrons' tables. The officers and other patrons consumed alcohol well after 2:00 a.m., with the officers consuming until 2:20 a.m. Licensees, Marcel Ezerzer and Costas Charalambous, and manager Blandino were in the Licensed Premises watching as the employee transferred the contents of the patrons' liquor bottles to empty plastic water bottles. Marcel Ezerzer, Costas Charalambous, and manager Blandino appeared to the officers to be overseeing/supervising the concealment of the patron's alcoholic beverages, in a well-organized scheme to continue selling alcohol and permitting alcohol consumption in the Licensed Premises after 2:00 a.m.

112. At 2:00 a.m. the officers observed multiple patrons smoking tobacco and cannabis cigarettes in the Licensed Premises. The officers watched two patrons at a table adjacent to theirs assemble cannabis joints/cigarettes, light them and smoke them, in full view of management, Licensees and employees. (Exhibit 23 – color photo of patron assembling cannabis joint and second patron smoking cannabis cigarette at table, with plumes of smoke emanating from the joint between his thumb and forefinger.)

113. At 2:24 a.m. Officer Sagbigal approached the fixed bar and asked the female bartender if he could purchase a shot of liquor. The bartender said he could not purchase a single shot, but could purchase a bottle of distilled spirits, and if he purchased a bottle of alcohol she would have to pour the contents of the alcohol into plastic water bottles because it was after 2:00 a.m. and technically illegal for her to sell him alcohol. However, she said she would provide him the liquor so long as he agreed to conceal the alcohol in plastic water bottles, to disguise the sale and continued consumption of alcohol after 2:00 a.m.

### CONCLUSIONS OF LAW

1. Article XX, section 22 of the California Constitution and section 24200(a) provide that a license to sell alcoholic beverages may be suspended or revoked if continuation of the license would be contrary to public welfare or morals.
2. Section 24200(b) provides that a licensee's violation, or causing or permitting of a violation, of any penal provision of California law prohibiting or regulating the sale of alcoholic beverages is also a basis for the suspension or revocation of the license.
3. Rule 143 prohibits a licensee's employees from soliciting, in the licensed premises, the purchase or sale of any drink, any part of which is for, or intended for, the consumption or use of such employee. Rule 143 further prohibits a licensee's employees from accepting, in the licensed premises, any drink purchased or sold there, any part of which is for, or intended for, the consumption or use of any employee.
4. Cause for suspension or revocation of the Respondent's license was established in accordance with Article XX, section 22 of the California State Constitution, sections 24200(a) and (b), rule 143, and Findings of Fact ¶14, for the violation of rule 143, as alleged in count 5.
5. Rule 143.2(3) prohibits a licensee from encouraging or permitting any person on the licensed premises to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person. All such acts or conduct are contrary to public welfare or morals and, therefore, no on-sale license shall be held at any premises where a licensee permits such conduct or acts.
6. Rule 143.3(1) prohibits a licensee from permitting any person to perform acts of, or acts which simulate, sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law. Rule 143.3(1) also prohibits a licensee from permitting any person to perform acts of, or acts which simulate, the touching, caressing, or fondling of the breast, buttocks, anus, or genitals as well as the displaying of the pubic hair, anus, vulva, or genitals. All such acts or conduct are

contrary to public welfare or morals and, therefore, no on-sale license shall be held at any premises where a licensee permits such conduct or acts.

7. Rule 143.3(2) permits live entertainment on a licensed premises by entertainers whose breasts, buttocks, or both are exposed to view, provided that such entertainers perform upon a stage at least 18 inches above the immediate floor level and removed at least six feet from the nearest patron. Performances which violate these restrictions are contrary to public welfare or morals and, therefore, no on-sale license shall be held at any premises where a licensee permits such performances.

8. Cause for suspension or revocation of the Respondent's license was established in accordance with Article XX, section 22 of the California State Constitution, sections 24200(a) and (b), rules 143.2(3), 143.3(1)(a), 143.3(1)(b), 143.3(1)(c), and 143.3(2), and Findings of Fact ¶¶ 12-13, 15-16, 20-24, 26, 34-35, 46-47, 48, and 67, for the violations alleged in counts 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 26, 27, 29-31, 34, 35, 36, and 37.

9. Cause for suspension or revocation of the Respondent's license was **not** established for the violations of rules 143.2(3) and alleged in counts 3, 4, and 30. (Findings of Fact ¶¶ 9, 10, 48.)

10. With respect to count 3, Dancer 1 grabbed Officer Pineda's hands and placed them on her bare buttocks, *immediately* thereafter Officer Pineda removed his hands. Similarly, with respect to count 4, *immediately* upon Dancer 1 grabbing Officer Pineda's genitalia Officer Pineda stood up and walked away. With respect to count 30, Dancer 7's bare breasts were touching Officer Monzon's face for *less than a second* because the officer *immediately* pulled back and pushed her away to separate himself from Dancer 7. While a single touch on the breast, buttocks or genitalia may be a technical violation of the rule, it differs from extended squeezing and fondling as described elsewhere in the testimony. The touching in question does not rise to the level necessary to constitute a violation of the rule. (Findings of Fact ¶¶ 9, 10, 48 .)

11. Section 23804 provides that the violation of a condition placed upon a license constitutes the exercise of a privilege or the performing of an act for which a license is required without the authority thereof and constitutes grounds for the suspension or revocation of the license.

12. Cause for suspension or revocation of the Respondent's license exists under Article XX, section 22 of the California State Constitution, and sections 24200(a) and (b) for the violations of section 23804 alleged in counts 32 and 33. Specifically, January 28, 2020, the Respondent-Licensees (1) did not have a personnel file for each entertainer and (2) did not have a signed copy of Rule 143.2 and 143.3 for each entertainer. The foregoing

were violations of condition number 1 endorsed upon the Respondent's license. (Findings of Fact ¶¶ 4, 5, 49-54.)

13. Penal Code section 148(a)(1) provides that it is illegal for a person to willfully resist, delay, or obstruct any peace officer in the discharge or attempt to discharge any duty of his or her office or employment.

14. Cause for suspension or revocation of the Respondent's license was **not** established for the violation of Penal Code section 148(a)(1) alleged in counts 42 and 43. The Department did not provide any authority in support of its position that Sergio Blandino's or Respondent's employees or agents' actions violated section 148(a)(1). A review of some of the cases involving obstruction of an officer in the performance makes clear that a person's actions are examined along a continuum ranging from being uncooperative to an outright failure to comply. The preponderance of the evidence established that manager Blandino and Respondent's employees were cooperative. Officer Cabrera testified that they were cooperative when speaking with the officers. The credible evidence established that manager Blandino was not aware of the shooting at the Licensed Premises, because at the time of the shooting he was in his office at the back of the building of the Licensed Premises and employees did not inform him of an incident occurring at the Licensed Premises prior to the officers arriving and returning, other than a valet saying that an incident took place down the street. The employees Officer Cabrera spoke to initially and who directed him south of the Licensed Premises, were unidentified, they were not valet Sandoval or security Crawford. As it turned out, manager Blandino and the employees pointed the officers in the direction the suspects' car had gone. There is no credible evidence of the employees' state of mind under the circumstances. It is speculation to say they were being deceitful. Just as it could be speculated the employees simply thought they were helping the officers go in the direction the suspects had gone to aide the officers in catching the suspects. There is no evidence officers spoke with valet Sandoval prior to being directed south of the Licensed Premises. The evidence shows that when the officers first arrived manager Blandino approached the officers and tried to assist them in locating a shooting by using his cell phone "Citizen App." Manager Blandino was cooperative at all times, including showing the officers the video camera surveillance. Valet Sandoval and security Crawford fully cooperated and provided statements which were consistent with the surveillance footage. (Findings of Fact ¶¶ 75-82, 103.)

15. Penal Code section 347b provides that it is "unlawful for any person, firm or corporation to manufacture, sell, furnish, or give away, or offer to manufacture, sell, furnish, or give away any alcoholic solution of a potable nature containing any deleterious or poisonous substance." The burden of proof in any case brought under this section shall be upon the person, firm, or corporation in question to show that such

alcoholic solution of a potable nature did not contain any deleterious or poisonous substance.

16. Cause for suspension or revocation of the Respondent's license was **not** established for the violation of Penal Code section 347b alleged in count 40. (Findings of Fact ¶ 68.) The Department did not produce at the hearing the bottles, or photographs of the bottles, which allegedly contained a deleterious or poisonous substance. The undersigned was not able to view the liquid contents to make a determination thereof. Since weaker, less satisfactory evidence was offered when it was within the power of the Department to produce stronger, more satisfactory evidence the evidence offered is viewed with distrust. (Evidence Code section 412.) The Respondent met its burden, by a preponderance of the evidence, in proving the alcoholic solution of a potable nature did not contain any deleterious or poisonous substance. Officer Lopez testified the bottles contained small hair-like particles and fruit flies. While admittedly someone might not want to drink alcohol containing a hair and fruit fly, these substances are not of a deleterious or poisonous nature. Furthermore, there was no evidence the Respondent's staff were pouring from these four bottles and otherwise manufacturing, selling, furnishing, or giving away or offering to manufacture, sell, furnish, or give away the contents from the four said bottles. Officer Lopez testified he observed evidence of empty glassware and half-finished alcoholic beverage drinks in the Licensed Premises but did not inspect any of them to see if there was any deleterious or poisonous substance therein.

17. Penal Code section 647(b) provides in part that, "every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(1) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with the intent to receive compensation, money, or anything of value from another person. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, the individual manifests an acceptance of an offer or solicitation by another person to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in an act of prostitution.

(2) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person who is 18 years of age or older in exchange for the individual providing compensation, money, or anything of value to the other person. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, the individual manifests an acceptance of an offer or solicitation by another person who is 18 years of age or older to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in an act of prostitution.

(3) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person who is a minor in exchange for the individual

providing compensation, money, or anything of value to the minor. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, the individual manifests an acceptance of an offer or solicitation by someone who is a minor to so engage, regardless of whether the offer or solicitation was made by a minor who also possessed the specific intent to engage in an act of prostitution.

(4) A manifestation of acceptance of an offer or solicitation to engage in an act of prostitution does not constitute a violation of this subdivision unless some act, in addition to the manifestation of acceptance, is done within this state in furtherance of the commission of the act of prostitution by the person manifesting an acceptance of an offer or solicitation to engage in that act. As used in this subdivision, 'prostitution' includes any lewd act between persons for money or other consideration."

18. Cause for suspension or revocation of the Respondent's license was established for the violations of Penal Code section 647(b) alleged in counts 6, 7, 20 and 23.  
(Findings of Fact ¶¶ 14, 17, 25, 31 and 53.)

19. As to count 6, Dancer Melo, an employee or agent of the Licensed Premises, solicited and agreed to engage in an act of prostitution with the intent to receive money from another in violation of Penal Code section 647(b)(1) with the agreement of \$150 in exchange for oral sex with Officer Manahan. The manifestation requirement of Penal Code section 647(b)(4) was fulfilled after Officer Manahan said, "Okay I like that. Let me check with my boyfriend because he has the money," and Dancer Melo replied, "Check with him and we can go to the back later." These were clear and unequivocal statements directed at completing the agreed-to act of prostitution. An act in furtherance may consist of words alone, providing the statement(s) made are unambiguous and unequivocal in conveying that the agreed act of prostitution would occur and move the parties toward completion of that act.<sup>26</sup>

20. As to count 7, Dancer Silva, an employee or agent of the Licensed Premises, solicited and agreed to engage in an act of prostitution with the intent to receive money from another in violation of Penal Code section 647(b)(1) with the agreement of \$6,000 in exchange for oral and vaginal sex with both Officers Clark and Manahan. The manifestation requirement of Penal Code section 647(b)(4) was fulfilled when Dancer Silva told Officer Clark he needed to go to the back VIP room and pay her manager. This statement was unambiguous and unequivocal in conveying that the agreed act of prostitution would occur and move the parties toward completion of that act.

21. As to count 20, Ariel, an employee or agent of the Licensed Premises, solicited and agreed to engage in an act of prostitution with the intent to receive money from another in

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<sup>26</sup> Kim v. Superior Court (People) (2006) 136 Cal.App.4th 937, 945 [39 Cal.Rptr.3d 338].

violation of Penal Code section 647(b)(1) with the agreement of \$500 in exchange for oral sex with Officer Madjd. The manifestation requirement of Penal Code section 647(b)(4) was fulfilled when Ariel told Officer Gone "Okay, but we can't do it here, we would have to go to the back," Officer Gone agreed and Ariel got up and began to walk toward the back room. In balancing Evidence Code section 780 Respondent's claim that Ariel was not an employee is disbelieved. The preponderance of the credible evidence established that Ariel was an employee and/or agent of Respondent's and was permitted to remain and perform as an entertainer/dancer in the Licensed Premises on November 16, 2019. On that date, a security guard stood directly in front of the officers' VIP booth within plain view of Ariel's actions, and he did nothing to stop Ariel. Ariel directed Officer Gone to go to the back room to engage in the act of prostitution, aware of the solicitation and prostitution scheme at the Licensed Premises where entertainers/dancers led patrons to the back room. Officer Gone credibly testified to observing other patrons receiving lap dances from dancers and then making their way to the direction of the back room with the dancers.

22. As to count 23, Dancer Baquedano, an employee or agent of the Licensed Premises, solicited and agreed to engage in an act of prostitution with the intent to receive money from another in violation of Penal Code section 647(b)(1) with the agreement of \$300 in exchange for oral sex. The manifestation requirement of Penal Code section 647(b)(4) was fulfilled when Dancer Baquedano informed Officer Thomas that she had already exchanged numbers with Officer Dollente, to give her a call, which was a clear and unequivocal statement directed at completing the agreed-to act of prostitution.

23. Cause for suspension or revocation of the Respondent's license was **not** established for the violation of Penal Code section 647(b) alleged in counts 24, 38 and 39. (Findings of Fact ¶¶ 32, 33, 62-64.)

24. As to count 24, the manifestation requirement of Penal Code section 647(b)(4) is absent. It requires that **an act be done in furtherance** of the commission of the act of prostitution by the person manifesting an acceptance. During their first conversation about a bachelor party, Officer Dollente tried to clarify what she meant by "everything," and Dancer Quan said she would only tell him if he got a VIP lap dance, or went to the VIP room. Her words did not clearly, unequivocally and unambiguously convey that the act of prostitution would occur and move the parties to completion of the agreed act. Her statements were that she would tell him what everything meant if he got a lap dance or went to the VIP room, not that they would engage in an act of prostitution if he got a lap dance or went to the VIP room. Officer Dollente then changed the conversation to asking for a "car date." While they agreed upon the terms that she would charge \$1000 for a car date, which would include "everything," thereafter Dancer Quan walked away and the LAPD take down team entered the Licensed Premises. Dancer Quan and Officer Dollente had not made any arrangements to go out to his car; they did not exchange

phone numbers, he did not tell her what kind of car he had or where it was in the parking lot, no money was exchanged, nothing else was said.

25. As to counts 38 and 39 relating to dancer Williams and Knowlin, the cursory statement by Officer Alvarado on the witness stand about his interaction with dancer Williams and the cursory statement in Officer Parades' report, which provided merely a legal conclusion, were both devoid of any actual description of the conversations between the Officers and the two women to establish sufficient proof of the elements of section 647(b). Even Officer Parades admitted that he was 15 feet away from Officer Vest and Knowlin at the time, while loud, heavy-based music played, preventing him from hearing any part of the conversation between Officer Vest and Knowlin. Respondent's Exhibit C at page 153 was not proffered for admission nor admitted into evidence, which outlined the conversation between Officer Alvarado and dancer Williams. Furthermore, the manifestation requirement of Penal Code section 647(b)(4) is lacking because there was no evidence of any act done in furtherance as required.

26. Health & Safety Code section 11350 (a) states that, except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b), (c), (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in a county jail for not more than one year, except that such person shall instead be punished pursuant to subdivision (h) of Section 1170 of the Penal Code if that person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code.

27. Cause for suspension or revocation of the Respondent's license was **not** established for the violation of Health and Safety Code section 11350 alleged in count 25. (Findings of Fact ¶ 39.) It was not proved by a preponderance of the evidence the substances seized from Mendoza's person and backpack were cocaine. There was no evidence of competent testimony from a chemist or criminalist to establish the white powdery substances were tested and determined to be cocaine. The Department argued that the testimony of Officers Clark and Coreas, that in their opinion it appeared to be cocaine, was sufficient to positively identify the white powdery substances as cocaine based on their training and experience, citing *People v. Sonleitner*.<sup>27</sup> However, in *Sonleitner*, the court pointed out that the prosecution in that matter had "carefully set forth several types of circumstantial

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<sup>27</sup> *People v. Sonleitner* (1986) 183 Cal. App.3d 364.

evidence to prove the character of the powder, although the substance was not recovered for analysis, and ‘when’ all these facts are considered, they ‘justify the inference of guilt.’” In *Sonleitner*, the vast circumstantial evidence included that a codefendant who sold cocaine to an undercover officer was observed to have procured the cocaine from the house the defendant occupied, sold only half of the agreed upon product and assured the other half would be retrieved, the defendant was seen in the same house from which the co-defendant had procured the initial half, which gave the police probable cause to believe the remaining half of cocaine would be found in that house, the defendant was seen running to the bathroom with a bottle in his hand, and an experienced officer testified the substance defendant flushed down the toilet looked like cocaine, and the initial half sold to the undercover agent was tested and found to be cocaine. The evidence strongly indicated the substance destroyed by the defendant was the other half of the cocaine partially delivered to the undercover officer. The testifying officer had seen cocaine thousands of times in his 10 years’ experience as a narcotics officer. The *Sonleitner* court stated that “the only reasonable inference from [defendant’s] conduct in running [through the house] and flushing the powder down the toilet at the sound of his companion’s yell that “the sheriff’s are coming,” is that the substance was unlawful, since there would be no need to destroy a substance which was lawful to possess.” Here, in this matter, there was only the officers’ testimony they believed, based on their experience and training, that the white powdery substance appeared to be cocaine and the storage methods of cocaine. However, Officer Clark testified that he believed cocaine could also be off-white in color.<sup>28</sup> Here, there is insufficient circumstantial evidence to draw a reasonable inference that the substances found on Mendoza’s person and backpack were cocaine.

28. Health and Safety Code section 11362.3(a)(1) states: “(a) Section 11362.1 does not permit any person to: “(1) Smoke or ingest cannabis or cannabis products in a public place, except in accordance with Section 26200 of the Business and Professions Code.”

29. Cause for suspension or revocation of the Respondent’s license was established in accordance with Article XX, section 22 of the California State Constitution, sections 24200(a) and (b), Health and Safety Code section 11362.3(a)(1), and Findings of Fact ¶¶ 8, 11-12, 19, and 46, for the violations as alleged in counts 1 and 2.

30. Labor Code section 6404.5 provides:

(a) The Legislature finds and declares that regulation of smoking in the workplace is a matter of statewide interest and concern. It is the intent of the Legislature in enacting this

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<sup>28</sup> In *People v. Sonleitner*, the expert testimony of Officer Felix in that matter was that cocaine is white and Inositol is off-white or dull white; that inositol is an inert ingredient commonly used for cutting cocaine and that “[Anyone] that has been in the business, either from my end or the other end can tell the difference between cutting agent and cocaine.”

section to prohibit the smoking of tobacco products in all (100 percent of) enclosed places of employment in this state, as covered by this section, thereby eliminating the need of local governments to enact workplace smoking restrictions within their respective jurisdictions. It is further the intent of the Legislature to create a uniform statewide standard to restrict and prohibit the smoking of tobacco products in enclosed places of employment, as specified in this section, in order to reduce employee exposure to environmental tobacco smoke to a level that will prevent anything other than insignificantly harmful effects to exposed employees, and also to eliminate the confusion and hardship that can result from enactment or enforcement of disparate local workplace smoking restrictions. Notwithstanding any other provision of this section, it is the intent of the Legislature that an area not defined as a "place of employment" pursuant to subdivision (e) is subject to local regulation of smoking of tobacco products.

(b) For purposes of this section, an "owner-operated business" shall mean a business having no employees, independent contractors, or volunteers, in which the owner-operator of the business is the only worker. "Enclosed space" includes covered parking lots, lobbies, lounges, waiting areas, elevators, stairwells, and restrooms that are a structural part of the building and not specifically defined in subdivision (e).

(c) An employer or owner-operator of an owner-operated business shall not knowingly or intentionally permit, and a person shall not engage in, the smoking of tobacco products at a place of employment or in an enclosed space.

(d) For purposes of this section, an employer or owner-operator of an owner-operated business who permits any nonemployee access to his or her place of employment or owner-operated business on a regular basis has not acted knowingly or intentionally in violation of this section if he or she has taken the following reasonable steps to prevent smoking by a nonemployee:

(1) Posted clear and prominent signs, as follows:

(A) Where smoking is prohibited throughout the building or structure, a sign stating "No smoking" shall be posted at each entrance to the building or structure.

(B) Where smoking is permitted in designated areas of the building or structure, a sign stating "Smoking is prohibited except in designated areas" shall be posted at each entrance to the building or structure.

(2) Has requested, when appropriate, that a nonemployee who is smoking refrain from smoking in the enclosed workplace or owner-operated business. For purposes of this subdivision, "reasonable steps" does not include:

(A) the physical ejection of a nonemployee from the place of employment or owner-operated business or

(B) any requirement for making a request to a nonemployee to refrain from smoking, under circumstances involving a risk of physical harm to the employer or any employee or owner-operator.

(e) For purposes of this section, “place of employment” does not include any of the following:

(1) Twenty percent of the guestroom accommodations in a hotel, motel, or similar transient lodging establishment.

(2) Retail or wholesale tobacco shops and private smokers’ lounges. For purposes of this paragraph:

(A) “Private smokers’ lounge” means any enclosed area in or attached to a retail or wholesale tobacco shop that is dedicated to the use of tobacco products, including, but not limited to, cigars and pipes.

(B) “Retail or wholesale tobacco shop” means any business establishment, the main purpose of which is the sale of tobacco products, including, but not limited to, cigars, pipe tobacco, and smoking accessories.

(3) Cabs of motortrucks, as defined in Section 410 of the Vehicle Code, or truck tractors, as defined in Section 655 of the Vehicle Code, if nonsmoking employees are not present.

(4) Theatrical production sites, if smoking is an integral part of the story in the theatrical production.

(5) Medical research or treatment sites, if smoking is integral to the research and treatment being conducted.

(6) Private residences, except for private residences licensed as family day care homes where smoking is prohibited pursuant to Section 1596.795 of the Health and Safety Code.

(7) Patient smoking areas in long-term health care facilities, as defined in Section 1418 of the Health and Safety Code.

(f) The smoking prohibition set forth in this section constitutes a uniform statewide standard for regulating the smoking of tobacco products in enclosed places of employment and owner-operated businesses and supersedes and renders unnecessary the local enactment or enforcement of local ordinances regulating the smoking of tobacco products in enclosed places of employment and owner-operated businesses. Insofar as the smoking prohibition set forth in this section is applicable to all (100 percent) places of employment and owner-operated businesses within this state and, therefore, provides the maximum degree of coverage, the practical effect of this section is to eliminate the need of local governments to enact enclosed workplace smoking restrictions within their respective jurisdictions.

(g) This section does not prohibit an employer or owner-operator of an owner-operated business from prohibiting smoking of tobacco products in an enclosed place of employment or owner-operated business for any reason.

(h) The enactment of local regulation of smoking of tobacco products in enclosed places of employment or owner-operated businesses by local governments shall be suspended only for as long as, and to the extent that, the (100 percent) smoking prohibition provided for in this section remains in effect. In the event this section is repealed or modified by subsequent legislative or judicial action so that the (100 percent) smoking prohibition is no longer applicable to all enclosed places of employment and owner-operated businesses in California, local governments shall have the full right and authority to enforce previously enacted, and to enact and enforce new, restrictions on the smoking of tobacco products in enclosed places of employment and owner-operated businesses within their jurisdictions, including a complete prohibition of smoking. Notwithstanding any other provision of this section, an area not defined as a “place of employment” or in which smoking is not regulated pursuant to subdivision (e), is subject to local regulation of smoking of tobacco products.

(i) A violation of the prohibition set forth in subdivision (c) is an infraction, punishable by a fine not to exceed one hundred dollars (\$100) for a first violation, two hundred dollars (\$200) for a second violation within one year, and five hundred dollars (\$500) for a third and for each subsequent violation within one year. This subdivision shall be enforced by local law enforcement agencies, including, but not limited to, local health departments, as determined by the local governing body.

(j) Notwithstanding Section 6309, the division is not required to respond to any complaint regarding the smoking of tobacco products in an enclosed space at a place of employment, unless the employer has been found guilty pursuant to subdivision (i) of a third violation of subdivision (c) within the previous year.

(k) If a provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(l) For purposes of this section, “smoking” has the same meaning as in subdivision (c) of Section 22950.5 of the Business and Professions Code.

(m) For purposes of this section, “tobacco product” means a product or device as defined in subdivision (d) of Section 22950.5 of the Business and Professions Code.<sup>29</sup>

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<sup>29</sup> Amended by Stats. 2016, 2nd Ex. Sess., Ch. 7, Sec. 23.5. (SB 5 2x) Effective June 9, 2016.

31. Cause for suspension or revocation of the Respondent's license was established in accordance with Article XX, section 22 of the California State Constitution, sections 24200(a) and (b), Labor Code section 6404.5, and Findings of Fact ¶¶ 8, 30, 36-38, and 66, for the violation of Labor Code section 6404.5, as alleged in counts 28 and 41.

32. Business and Professions Code section 25601 defines a disorderly house as follows; "Every licensee, or agent or employee of a licensee, who keeps, permits to be used, or suffers to be used, in conjunction with a licensed premises, any disorderly house or place in which people abide or to which people resort, to the disturbance of the neighborhood, or in which people abide or to which people resort for purposes which are injurious to the public morals, health, convenience, or safety, is guilty of a misdemeanor."

33. A Department licensee has an affirmative duty to maintain his or her premises in a lawful and orderly fashion (*Givens v. Department of Alcoholic Beverage Control* (1959) 176 Cal.App.2d 529). A disorderly house charge is synonymous in the law with a nuisance allegation, wherein a person, or licensee in this matter, permits ongoing illegal activity to continue unchecked (*Yu v. Alcoholic Beverage Control Appeals Board* (1992) 3 Cal.App.4<sup>th</sup> 286). Disorderly house accusations are inherently aimed at stopping persistent violations of the law.

34. The court in *Morell v. Department of Alcoholic Beverage Control* (1962) 204 Cal.App.2d 504, observed; "Where... objectionable behavior in a licensed establishment is of a continuing nature and not merely an isolated or accidental instance, it is an inescapable conclusion that the licensees have permitted and suffered the resultant condition which offends public welfare and morals and violates the statutory prohibition against keeping a disorderly house." (See also, *Harris v. Alcoholic Beverage Control Appeals Board* (1963) 212 Cal.App.2d 106; frequent arrests of intoxicated patrons over a six-month period sufficient to sustain a disorderly house accusation.)

35. In count 44, the Department pled sub-counts 1 to 10 (reflecting dates between on or about August 8, 2021 and on or about May 15, 2022) to establish liability under Section 25601. In count 45 the Department pled the same dates and sub-counts 1 to 10 to establish liability under section 24200(a). Counts 44 and 45, along with their sub-counts will be discussed in combination.

36. Count 45 of the accusation alleges a violation of Article XX, section 22 of the California Constitution and Business and Professions Code section 24200(a), alleging that the Licensed Premises has become a law-enforcement problem for the City of Los Angeles based on the number and type of calls for service, investigations, arrests, or patrols concerning the conduct and acts occurring in or about said premises, thereby creating conditions contrary to public welfare and morals. The Department's theory is

that the Respondent created the conditions under which the incidents occurred and, therefore, is responsible for them.

37. As pled, the Department must establish each call for service, a law enforcement response, and a nexus to the Licensed Premises. The Department does not have to prove any of the underlying offenses. The Department must, however, show that those calls which have a nexus to the Licensed Premises somehow constituted a drain on police resources. It borders on axiomatic that the Department cannot discipline a licensee merely because the Licensed Premises is located in a high-crime area. Conversely, no matter how high or low the crime level in a given area may be, a licensee is legally obligated to ensure that the Licensed Premises is run in a lawful manner—i.e., does not create or add to a law-enforcement problem.

38. In a typical law-enforcement case, the Department establishes the number and type of calls for service related to a particular licensed premises. For those calls which resulted in a report being generated, the Department typically calls one or more of the officers involved to establish the basis for the call as well as the nexus to the licensed premises. The Department also presents testimony from a ranking officer with the local law enforcement agency to establish the extent of the drain on police resources.

39. In the present case, the Department called multiple officers involved in investigating the calls for service/listed incidents in the sub-counts of counts 44 and 45, as well as testimony from a ranking officer, Sergeant Holguin.

40. However, with respect to counts 44 and 45 sub-count 7, there was no testimony or evidence presented. With respect to counts 44 and 45 sub-counts 3, 4, 5, 6, 8 and 9, there is insufficient evidence to connect any of the reports/incidents to the Licensed Premises. In other words, the Department failed to establish a nexus between the incidents and the Licensed Premises.

41. The mere fact that some of the victims were patrons of the Licensed Premises at some point in the evening prior or morning of the incident is insufficient to establish a nexus to the Licensed Premises and hold the Licensee responsible. Counts 44 and 45, sub-count 3 involved an assault with a deadly weapon and robbery at Durham's residence. The mere fact the three friends (Durham, Hicks and Harrington) had been patrons earlier the evening prior or earlier that morning, does not provide a nexus to the incident. There was no evidence the incident was a follow-home robbery, as Durham was attacked as soon as he was dropped off by Hicks and left her car. There was no evidence as to the time the three friends left the Licensed Premises and when they arrived at Durham's residence. The only evidence as to timing was upon cross-examination that it was approximately a five-minute drive from the Licensed Premises to Durham's residence. It cannot be assumed the three friends went straight to Durham's residence

from the Licensed Premises and did not stop somewhere in between. Furthermore, the officers investigating the incident received no information or evidence that the suspects were coming from, affiliated with, related, or had anything to do with the Licensed Premises.

42. Sub-count 4 established that the patron/victim left the Licensed Premises and walked north on North La Brea Avenue up the street and along Sunset Boulevard in front of Tacos El Gavilan located at 7070 Sunset Boulevard where he was assaulted with a deadly weapon and robbed by suspects who were parked behind his vehicle. There was no evidence the three suspects were seen anywhere near the Licensed Premises.

43. In sub-count 5, there was no violation. (See paragraphs 24-26 in Concl. of Law.)

44. Sub-count 6 involved Tiffany, Jason and Annabelle leaving the Licensed Premises, walking through the neighborhood, approximately one-quarter mile from and not near the Licensed Premises, to Annabelle's vehicle at the 7000 block of De Longpre Avenue, when they were attacked. There was no evidence that the suspects were patrons of, associated, affiliated with or related to the Licensed Premises.

45. Sub-count 8 involved a concealed firearm found in the Ford Mustang that was stolen in or around Upland and spotted by officers traveling eastbound on Sunset Boulevard at a high rate of speed, not near the Licensed Premises, make an unsafe U-turn across double-yellow lines, stop in front of 7051 Sunset Boulevard and then take off. The mere fact Jordan Murray claimed he either was planning to go to or had just left the Licensed Premises does not create a sufficient nexus to the Licensed Premises.

46. Sub-count 9 involved two of Respondent's security guards observing pedestrians running toward them, and a suspect south of the pedestrians and the Licensed Premises firing shots from a weapon in the air and then get into a vehicle. There was no evidence the pedestrians or suspect were patrons of or connected to the Licensed Premises. There is no nexus to the Licensed Premises. The mere fact the security guards were witnesses does not warrant discipline against the Licensee. In fact, security guard Cruz phoned the police to report his observations. Calling the police for assistance is a reasonable step a licensee can take.

47. With that said, with respect to counts 44 and 45, sub-count 1 and 2, which relate to the same suspect, and sub-count 10, a nexus to the Licensed Premises was established. Sub-counts 1 and 2, involved two patrons (Victims 1 and 2) leaving the Licensed Premises, and after Respondent's valet parked Victim 1's vehicle right outside the Licensed Premises Victim 1 was assaulted with a deadly weapon and robbed; and Victim 2 suffered a gunshot wound to his leg when he entered his vehicle. Sub-count 10 involved Respondent's valet and security guard getting into an altercation with two

suspects who pulled up to the Licensed Premises' valet, and then as they drove off fired a weapon, and security guard Crawford returned fire.

48. While the majority of the sub-counts do not have a nexus to the Licensed Premises, beyond the 10 specific incidents there was ample evidence of pervasive illegal conduct taking place in the Licensed Premises, such that the Licensed Premises has been and continues to be a law enforcement problem, that the owners were actually or constructively aware of the problems and were not effective in controlling the rampant, open and overt illegal activities and violations permeating in the Licensed Premises. Those include, but are not limited to, violations ranging from the health and safety code, business and professions code, penal code, labor code, and rule 143-type violations. A clear history was established from September of 2019 to May 15, 2022, of calls for service to the Licensed Premises, open and overt solicitation and agreements to engage in prostitution, cannabis and tobacco smoking within the Licensed Premises, conditions violations, and open, overt lewd conduct violations.

49. Despite multiple warnings, discussions and notice given to the Respondent and its management by the LAPD and Department of the history of repeated violations at the Licensed Premises, illegal activity continues with no improvement. In fact, evidence established that violations were permitted by and done in the presence and view of management, staff and the Licensee. Ms. Ezerzer continues to be an absentee operator. Sergio Blandino testified that Marcel Ezerzer is "never, at all" at the Licensed Premises. Sergio Blandino has been working at the Licensed Premises since 2017 and acknowledged that prostitution and smoking at the Licensed Premises were problems prior to 2019.

50. Sergeant Holguin testified at length to the significant drain the Licensed Premises' operation has had on the LAPD Hollywood Division and to public resources. Over a combined 18-month period the LAPD Hollywood Division, responsible for covering 17 square miles in Los Angeles, had to dedicate its vice unit, and then for 11 of those months dedicate multiple special units, including the vice, gang, narcotic, and patrol units, as well as the Hollywood Entertainment and Special Investigations Sections, to conduct operations at the Licensed Premises per the orders of the Deputy Chief of Operations for the West Bureau. The undercover operations revealed the multitude of open and overt illegal conduct and violations at the Licenses Premises as described above.

51. Cause for suspension or revocation of Respondent's license does exist under Article XX, section 22 of the California State Constitution and Business and Professions Code sections 24200(a) and (b) because Respondent operated the Licensed Premises as a disorderly house in violation of section 25601 as alleged in count 44. Count 44 is sustained. As to the 10 specific incidents alleged in Count 44, sub-counts 1, 2 and 10 are

sustained. However, as to the balance of the other incidents, sub-counts 3, 4, 5, 6, 7, 8 and 9 are dismissed. Beyond the 10 specific incidents, there was additional, overwhelming evidence presented of contacts with law enforcement between September 2019 and May 15, 2022, stemming from calls for service and violations consistent with the Licensed Premises operating as a disorderly house. (Findings of Fact ¶¶ 3-8, 11-31, 34-38, 40-47, 49-62, 65-67, 69-74, 83-95, 102-105, 107-113.)

52. Cause for suspension or revocation of Respondent's license does exist under Article XX, section 22 of the California State Constitution and Business and Professions Code sections 24200(a) and (b) because Respondents created a law enforcement problem for the LAPD as alleged in Count 45. Count 45 is sustained. As to the 10 specific incidents alleged in Count 45, sub-counts 1, 2 and 10 are sustained. However, as to the balance of the other incidents, sub-counts 3, 4, 5, 6, 7, 8 and 9 are dismissed. Beyond the 10 specific incidents, there was additional, overwhelming evidence presented of contacts with law enforcement between September 2019 and May 15, 2022, stemming from calls for service and violations consistent with the Licensed Premises operating as a law enforcement problem. (Findings of Fact ¶¶ 3-8, 11-31, 34-38, 40-47, 49-62, 65-67, 69-74, 83-95, 102-105, 107-113.)

53. Except as set forth in this decision, all other allegations in the accusation and all other contentions of the parties lack merit.

### PENALTY

The Department requested that the Respondent's license be revoked based on multiple aggravating factors, which the Department argued are demonstrated by (1) the Licensee, directly or indirectly through imputed knowledge of managers, ignoring or being incapable of enforcing their own policies, (2) repeated law enforcement requests made to the Licensee to improve operations at the premises, (3) a continued course and pattern of illegal conduct going strong even after the first hearing date, (4) the premises is located in a high crime area, and (5) recent disciplinary history in 2017, with the current violations beginning shortly after in 2019. The Department further argued that the recurring aggravating offense of disorderly house operations alone, or the recurring aggravating offense of prostitution alone, or the recurring aggravating offense of lewd conduct alone, each alone warrants a penalty of revocation, and here all three are present.

The Respondent argued that, if the accusation were sustained, there were multiple options available short of revocation, including, (1) imposition of a condition restricting the hours of operation upon the license since there was repeated testimony revealed that late night activity is the proximate cause, (2) revocation stayed pending either good behavior or satisfying certain bench marks; for example if there are particular harms to be rectified

such as the building and safety code violations, or ongoing law enforcement or disorderly house problems.

In assessing an appropriate measure of discipline, the Department's penalty standards and criteria are in California Code of Regulations, Title 4, Division 1, Article 22, section 144, commonly referred to as "Rule 144". Mitigating and aggravating factors may be taken into account when assessing the appropriate penalty.

Under Rule 144, the penalty for creating a law enforcement problem and for labor code violations are not specified. The penalty specified for prostitution violations, lewd conduct, and having a "disorderly house" in violation of section 25601, ranges from a 30-day suspension for occasional or isolated offenses on up to license revocation for recurring/aggravated offenses. The standard penalty for condition violations under section 23804 is a 15-day suspension with 5 days stayed for one year. For violation under rule 143, a 15-day suspension. For violations of the various subparts of rules 143.2 and 143.3, rule 144 recommends a penalty ranging from 30 days up to revocation. There is no recommended penalty for a violation under Health and Safety Code section 11362.3(a)(1).

The violations for prostitution, lewd conduct, disorderly house and the various subparts of rules 143.2 and 143.3 are recurring, aggravated offenses, which independently warrant revocation. The aggravating factors heavily outweigh the mitigating efforts the Respondent made (beginning with adding security starting in 2017 through 2019, and the changes manager Blandino testified as of July 16, 2021). There was no evidence of any recent steps or positive action by the Licensee to correct the problems. The Respondent failed to take Sergeant Holguin's recommendation to close at 2:00 a.m. or earlier to help alleviate the law enforcement burden for the LAPD Hollywood Division. Instead, the Respondent is an absentee Licensee, repeatedly placed on notice of recurring violations, with no improvement, and permitting continued violations. In weighing aggravating and mitigating factors, the penalty recommended herein complies with rule 144.

### **ORDER**

Counts 1, 2, 28 and 41 are sustained. With respect to those counts the Respondent's on-sale general public premises license is hereby suspended for 20 days.

Count 5 is sustained. With respect to count 5 Respondent's on-sale general public premises license is hereby suspended for 15 days.

Counts 32 and 33 are sustained. With respect to those counts Respondent's on-sale general public premises license is hereby suspended for 15 days.

Counts 6, 7, 20, and 23 are sustained. With respect to those counts Respondent's on-sale general public premises license is hereby revoked.

Count 44 and sub-counts 1, 2, and 10 are sustained. With respect to count 44 and those sub-counts Respondent's on-sale general public premises license is hereby revoked.

Count 45 and sub-counts 1, 2, and 10 are sustained. With respect to count 45 and those sub-counts Respondent's on-sale general public premises license is hereby revoked.

Counts 3, 4, 24, 25, 30, 38, 39, 40, 42 and 43 are dismissed.

Sub-counts 3, 4, 5, 6, 7, 8, and 9 of counts 44 and 45 are dismissed.

Dated: May 17, 2023



\_\_\_\_\_  
D. Huebel  
Administrative Law Judge

<input type="checkbox"/> Adopt
<input type="checkbox"/> Non-Adopt: _____
_____
By: _____
Date: _____

