

City of Madison City Clerk's Office

Alcohol License Review Committee Revocation Hearing, 4.9.26

mlr260409

1 [00:00:00]

2 **CHAIR BARUSHOK:** Okay. It's 5:00 PM on April 9th, so we can call the hearing
3 subcommittee of the Alcohol License Review Committee to order. Mr. Verbick?

4

5 **CLERK VERBICK:** Alder Glenn?

6

7 **ALDER GLENN:** Here.

8

9 **CLERK VERBICK:** Alder Glenn is here. Alder Figueroa Cole? Alder Figueroa Cole?
10 Okay. Miss Clements(?)? Clements is here. Mr. Barushok?

11

12 **CHAIR BARUSHOK:** Here.

13

14 **CLERK VERBICK:** Mr. Barushok is here. Chair, we do have quorum.

15

16 **CHAIR BARUSHOK:** I have a suspicion that Alder Figueroa Cole is here. So, Alder,
17 we can't hear you if you're talking. At some point please indicate that you're, can hear
18 us and that you're here. So today we'll meet as usual in a hybrid meeting. We will be
19 using the adapted procedures that the ALRC adopted on March 18, 2026 and, for
20 other routine things, Robert's Rules. This is the matter of *City v. Fusion Smoke &*

21 *Spirits*. I will control the flow of, the order of events. Please seek recognition before
22 speaking. Was this hearing properly noticed?

23

24 **CLERK VERBICK:** Yes.

25

26 **ALDER FIGUEROA COLE:** I'm sorry, guys. I didn't realize my phone, my computer
27 was connected to the T.V. So, the T.V., so if I didn't hear you. So I'm here if you
28 already call me.

29

30 **CHAIR BARUSHOK:** Okay, and you can hear us, right?

31

32 **ALDER FIGUEROA COLE:** I'm sorry. Can you repeat that?

33

34 **CHAIR BARUSHOK:** Can you hear us? Can you hear me speaking now?

35

36 **ALDER FIGUEROA COLE:** Yes, I can hear you. Let me just, again, the T.V. was just
37 connected, and there you go. Now you should, I should be able to hear you.

38

39 **CHAIR BARUSHOK:** Okay.

40

41 **ALDER FIGUEROA COLE:** Thank you.

42

43 **CHAIR BARUSHOK:** Got it. Okay. So we'll stop there. Appearances?

44

45 **ATTORNEY ZILAVY:** The City appears by Assistant City Attorney Jennifer Zilavy.

46

47 **CHAIR BARUSHOK:** Your name, please?

48

49 **MCROBERTS:** Jacob McRoberts.

50

51 **CHAIR BARUSHOK:** Okay. Are we, what's the status of Attorney Delyea?

52

53 **MCROBERTS:** He'll be here in five minutes.

54

55 [00:02:58]

56 **CHAIR BARUSHOK:** Okay. I think we can wait until then, if there's no objection.

57

58 [00:08:24]

59 **ATTORNEY DELYEA:** [Inaudible].

60

61 **CHAIR BARUSHOK:** State your name.

62

63 **ATTORNEY DELYEA:** Excuse me?

64

65 **CHAIR BARUSHOK:** Can you give your appearance?

66

67 **ATTORNEY DELYEA:** Sure. Attorney Anthony Delyea, appearing on behalf of
68 Fusions.

69

70 **CHAIR BARUSHOK:** Thank you. Okay. So we are at the point where I read this.
71 The burden of proof is, the City must prove the charges and the complaint to be true
72 by preponderance of the evidence, per Madison General Ordinance 38.10.
73 Preponderance of the evidence is evidence which is of greater weight or more
74 convincing than the evidence which is offered in opposition to it. That is, evidence
75 which, as a whole, shows that the fact sought to be proved is more probable than not.
76 Are there any stipulations or agreements between the parties?
77
78 **ATTORNEY DELYEA:** No.
79
80 **CHAIR BARUSHOK:** No? Okay. So now I ask the licensee if the licensee concedes
81 any of the allegations or counts in the complaint.
82
83 **ATTORNEY DELYEA:** There is one, the beer [inaudible], one moment, please.
84 [Inaudible]. Can we have just a moment?
85
86 **CHAIR BARUSHOK:** Yep.
87
88 **ATTORNEY DELYEA:** We can't concede that one either. My mistake.
89
90 **CHAIR BARUSHOK:** Okay. So there's not, you don't concede any of the counts in
91 the complaint?
92
93 **ATTORNEY DELYEA:** No.
94

95 **CHAIR BARUSHOK:** Okay. Now it's the time for . . .
96
97 **ATTORNEY DELYEA:** [Inaudible].
98
99 **CHAIR BARUSHOK:** . . . opening statements. Attorney Zilavy, would you like to give
100 an opening? It's optional.
101
102 **ATTORNEY ZILAVY:** No.
103
104 **CHAIR BARUSHOK:** Okay. Would you like to give an opening?
105
106 **ATTORNEY DELYEA:** No, thank you.
107
108 **CHAIR BARUSHOK:** Okay. Now it's time for the presentation of the evidence. The
109 City goes first.
110
111 **ATTORNEY ZILAVY:** The City calls Officer Joel Stelter. Is there a chair there?
112
113 [00:11:30]
114 **ATTORNEY MCREYNOLDS:** [Inaudible].
115
116 **CHAIR BARUSHOK:** . . . if you want to do [inaudible]. I can do it [inaudible].
117
118 **ATTORNEY MCREYNOLDS:** [Inaudible].
119

120 **CHAIR BARUSHOK:** I can do it.

121

122 **ATTORNEY MCREYNOLDS:** Do you have it with you? [Inaudible].

123

124 **COMMITTEE MEMBER:** [Inaudible].

125

126 **ATTORNEY MCREYNOLDS:** Okay.

127

128 **ATTORNEY ZILAVY:** Please state your name and spell it for the record.

129

130 **CHAIR BARUSHOK:** We'll wait one second [inaudible].

131

132 **ATTORNEY MCREYNOLDS:** We have to swear him in.

133

134 **ATTORNEY ZILAVY:** Oh, sorry. Jumping the gun.

135

136 **ATTORNEY DELYEA:** [Inaudible].

137

138 **CHAIR BARUSHOK:** There, it should be under your desk somewhere.

139

140 **ATTORNEY ZILAVY:** Is it right up on the side here?

141

142 **COMMITTEE MEMBER:** [Inaudible].

143

144 **CHAIR BARUSHOK:** Okay. Raise your right hand. Do you swear or affirm that the
145 testimony you are about to give shall be the truth, the whole truth, and nothing but the
146 truth?

147

148 **OFFICER STELTER:** I do.

149

150 **CHAIR BARUSHOK:** Thank you. You may proceed.

151

152 **ATTORNEY ZILAVY:** Please state your name and spell it for the record.

153

154 **OFFICER STELTER:** Joel, J-o-e-l, Stelter, S-t-e-l-t-e-r.

155

156 **ATTORNEY ZILAVY:** You're a police officer with the City of Madison, correct?

157

158 **OFFICER STELTER:** I am.

159

160 **ATTORNEY ZILAVY:** How long have you been a police officer with the City of
161 Madison?

162

163 **OFFICER STELTER:** It will be 20 years in May.

164

165 **ATTORNEY ZILAVY:** What is your current assignment?

166

167 **OFFICER STELTER:** Day shift downtown.

168

169 **ATTORNEY ZILAVY:** Was that your assignment on January 15th, 2026?

170

171 **OFFICER STELTER:** It was. I was one David three.

172

173 **ATTORNEY ZILAVY:** And that is a downtown shift?

174

175 **OFFICER STELTER:** Right.

176

177 **ATTORNEY ZILAVY:** What does the three mean in the one David three?

178

179 **OFFICER STELTER:** So David would be, the downtown units are all David units for
180 calling over the air. Three is the sector of this downtown area that I'm responsible for.

181

182 **ATTORNEY ZILAVY:** And one is?

183

184 **OFFICER STELTER:** First detail.

185

186 **ATTORNEY ZILAVY:** And what does first detail encompass?

187

188 **OFFICER STELTER:** 7:00 to 3:00 PM.

189

190 **ATTORNEY ZILAVY:** Do you recall going to Fusion Smoke & Spirits at 36 South
191 Bassett Street in Madison, Wisconsin on that date?

192

193 **OFFICER STELTER:** I do.

194

195 **ATTORNEY ZILAVY:** And why did you go there?

196

197 **OFFICER STELTER:** I was asked to serve a summons to the, to Jacob McRoberts at
198 that business.

199

200 **ATTORNEY ZILAVY:** Was that the first time that you attempted service with
201 McRoberts?

202

203 **OFFICER STELTER:** I attempted service twice that day, once in the morning and
204 then once in the afternoon.

205

206 **ATTORNEY ZILAVY:** And what happened the first time you went?

207

208 [00:14:23]

209 **OFFICER STELTER:** The first time, I initially went to 510 West Washington to
210 attempt to contact Mr. McRoberts at his listed address. A female answered the
211 buzzer, said that he wasn't there. I asked where he was. I was told he was running
212 errands. And so from there, I just went directly to the shop at, on Bassett.

213

214 **ATTORNEY ZILAVY:** And what happened when you got to the establishment?

215

216 **OFFICER STELTER:** There, I spoke to an employee who was unidentified at the
217 time, who informed me that Mr. McRoberts was not there. He said that, or, well, I told

218 him that I had a summons to serve him and that it wasn't going to go away and told
219 him that it was best if Mr. McRoberts just got a hold of us to handle that. And then I
220 left the store.

221

222 **ATTORNEY ZILAVY:** And did you go back to the store again?

223

224 **OFFICER STELTER:** I did.

225

226 **ATTORNEY ZILAVY:** How much later?

227

228 **OFFICER STELTER:** So my first attempt, I believe, was shortly before 10:00 AM. My
229 second attempt, then, was right around 1:00 PM.

230

231 **ATTORNEY ZILAVY:** And what happened on that visit?

232

233 **OFFICER STELTER:** So I arrived at the scene, the, with Officer Tray Turner. The
234 same clerk who had been working the previous time was there. He verbally, he stated
235 he didn't have an ID. He did not have a valid operator's license. He said he was in
236 the process of getting that corrected. I asked him for a verbal ID. He identified
237 himself as Jerome Luhv-Starr. He provided me his full name, middle initial, date of
238 birth.

239 I had Officer Tray Turner then take that information out to the, to his squad car
240 where he put Mr. Luhv-Starr's information into the TIME system, which returned, then,
241 it returns a photograph, driving history for people who have Wisconsin IDs. Officer

242 Turner then returned to the store and informed me that Mr. Luhv-Starr had given his
243 correct information. Via the database, he was able to confirm it.

244

245 **ATTORNEY ZILAVY:** And did you and Officer Turner ride in the same squad to the
246 store?

247

248 **OFFICER STELTER:** We did not.

249

250 **ATTORNEY ZILAVY:** Did you park your squads in the same spot when you arrived at
251 the store?

252

253 **OFFICER STELTER:** Roughly the same area, yes.

254

255 **ATTORNEY ZILAVY:** Can you describe where that area was?

256

257 **OFFICER STELTER:** So it would be the, I'm terrible with street names, the first street
258 immediately to the south of the shop and west of Bassett. So just right around the
259 corner from the business.

260

261 **ATTORNEY ZILAVY:** Where you were parked, could you see the business?

262

263 **OFFICER STELTER:** You can see the building. I'm not exactly sure how the
264 storefronts run. I don't think you can see directly into the shop.

265

266 [00:17:26]

267 **ATTORNEY ZILAVY:** But you can see the storefront?

268

269 **OFFICER STELTER:** Like the building itself, yes.

270

271 **ATTORNEY ZILAVY:** The building. And so Officer Turner then positively ID'd
272 Jerome Luhv-Starr, and he came back in to tell you that. Then what happened?

273

274 **OFFICER STELTER:** Then, shortly thereafter, another male entered the store from a
275 back area. He asked what was going on. I asked if he was Jacob McRoberts. He
276 asked again what was going on. I asked again and told him that Mr. Luhv-Starr was
277 just served a summons for a review of the liquor license for the business. Mr.
278 Luhv-Starr previously said that he was the only one in the shop, so that's why he was
279 served with the paperwork. At that point, Mr. McRoberts then identified himself as
280 Jacob McRoberts and stated that he did have a, well, I guess I skipped over a little bit
281 there. Sorry.

282 So at the time that Officer Turner was out running Mr. Luhv-Starr to confirm his
283 information, I informed Mr. Luhv-Starr that he had to shut down the business because
284 there was no licensed operator on the scene. At that point, he started shutting off the
285 lights, and he made a phone call. I didn't hear both sides, but I did hear Mr. Luhv-
286 Starr ask, where are you? And he started stating that he was closing down the
287 business, and whoever he was speaking to was going to have to reopen the business
288 when they got there.

289 So then after that point, then Officer Turner then came in, positively identified
290 Mr. Luhv-Starr. The gentleman came from the back area, had that contact with Mr.
291 McRoberts where he stated that he was a licensed operator. He pointed out his

292 license on the wall, provided a verbal ID, because he did, also did not have
293 identification on him. At that point . . .

294

295 **ATTORNEY ZILAVY:** I'd stop you for a second. Between the time that Luhv-Starr
296 made that phone call and then McRoberts arrived at the store, how much time would
297 you estimate passed?

298

299 **OFFICER STELTER:** It was a short time. I would say maybe three to five minutes. I
300 would really be estimating.

301

302 **ATTORNEY ZILAVY:** Okay. And so McRoberts verbally identified himself to you
303 when he arrived at the store. Did you positively identify him then?

304

305 **OFFICER STELTER:** Yes. I then gave, provided Officer Turner with the verbal
306 information he had provided. Officer Turner then returned to his squad car, put Mr.
307 McRoberts' information into the TIME system, was able to positively identify him.
308 Officer Turner returns to the store, tells me that he's positively identified. I took the
309 summons then and handed it to Mr. McRoberts.

310

311 [00:20:28]

312 **ATTORNEY ZILAVY:** Okay. And for the committee's benefit, can you explain how
313 the TIME system works, like how you get a positive identification out of that system?

314

315 **OFFICER STELTER:** Yes. So the TIME system is a database that we use where
316 we're able to put a person's name, middle initial, and date of birth, or full name, in

317 there, and if they have a valid, or even an expired Wisconsin ID, then we are given
318 those records. So we're able to see driver's license photographs, criminal histories,
319 driving records, current addresses that are listed through the Department of
320 Transportation.

321

322 **ATTORNEY ZILAVY:** Okay. So a photo actually appears on the system.

323

324 **OFFICER STELTER:** Right. Correct.

325

326 **ATTORNEY ZILAVY:** And after you served McRoberts with the summon and
327 complaint, what did you do?

328

329 **OFFICER STELTER:** So then Officer Turner and I then left the store. And as soon as
330 we got outside, Officer Turner looked at me and told me that Mr. Roberts had not been
331 in the back room. Officer Turner told me that after he finished running Mr. Luhv-Starr,
332 he walked out onto the sidewalk of Basset that runs in front of the address. He stated
333 that Mr. Luhv-Starr was walking south on the west sidewalk coming from . . .

334

335 **ATTORNEY ZILAVY:** I'll stop you for a second. You said Mr. Luhv-Starr was
336 walking . . .

337

338 **OFFICER STELTER:** Oh, sorry. Mr. McRoberts, sorry. Mr. McRoberts was walking
339 south on the west sidewalk coming from the area of 510 West Washington, which is
340 his address. He says he sees Mr. McRoberts take approximately three steps

341 southbound before taking a right westbound into the alley that would have led him to a
342 back entrance of the building.

343

344 **ATTORNEY ZILAVY:** Okay. Nothing further.

345

346 **CHAIR BARUSHOK:** Thank you. Attorney Delyea?

347

348 **ATTORNEY DELYEA:** Thank you. So you had pulled up a picture of Mr. McRoberts
349 before you arrived?

350

351 **OFFICER STELTER:** On the first trip where I stopped at the address that he had
352 listed in the Department of Transportation and then at the Starr, at the business where
353 I spoke to Mr. Luhv-Starr, I, previous to that, I had pulled up a TIME picture of him, a
354 DOT picture.

355

356 **ATTORNEY DELYEA:** And the other officer that said that he saw Mr. McRoberts,
357 how would he have known who he was?

358

359 **OFFICER STELTER:** Because after we had reentered the building and Officer Turner
360 said, yes, this is Mr. Luhv-Starr, he provided us the correct information, that was the
361 point at which Mr. McRoberts made his entrance from the back area and stated he
362 had been in the mail room.

363

364 **ATTORNEY DELYEA:** Right. But the officer that you said recognized him walking on
365 the street, how would he know who he, Mr. McRoberts was?

366

367 [00:23:30]

368 **OFFICER STELTER:** So Officer Turner admittedly did not know who he was at the
369 time that he walked in, but he recognized the person who came in from the back as
370 the same person he had seen on the sidewalk and also confirmed that later to be Mr.
371 McRoberts.

372

373 **ATTORNEY DELYEA:** And are you aware that the building that Fusions is in is
374 multiple levels?

375

376 **OFFICER STELTER:** I am.

377

378 **ATTORNEY DELYEA:** And were you aware at the time that there was an office in the
379 basement?

380

381 **OFFICER STELTER:** I am not aware of the layout beyond what's, what the shop
382 consists of.

383

384 **ATTORNEY DELYEA:** And it was, how long would you say after the lights started
385 getting shut off that Mr. McRoberts appeared?

386

387 **OFFICER STELTER:** Again, I'm, my estimate is three to five minutes. I couldn't say
388 exactly.

389

390 **ATTORNEY DELYEA:** So from the time, not the time that you arrived, but the time
391 that the lights were being shut off?

392

393 **OFFICER STELTER:** From the time the . . .

394

395 **ATTORNEY DELYEA:** [Inaudible] that long?

396

397 **OFFICER STELTER:** . . . phone call was made, it was roughly that time.

398

399 **ATTORNEY DELYEA:** I have no further questions.

400

401 **ATTORNEY ZILAVY:** Officer, just to clarify, you were in the store, and once
402 McRoberts entered, then Officer Turner went back out to his squad to put McRoberts'
403 information into the TIME system, correct?

404

405 **OFFICER STELTER:** Correct. When Mr. McRoberts provided me his verbal
406 information, I wrote it down. And I then provided that to Officer Turner to go to his car
407 to run Mr. McRoberts through the TIME system.

408

409 **ATTORNEY ZILAVY:** And then Officer Turner came in to tell you that that information
410 was confirmed, that it was, in fact, Mr. McRoberts, correct?

411

412 **OFFICER STELTER:** Correct.

413

414 **ATTORNEY ZILAVY:** And that information would have included a photograph of
415 McRoberts, correct?

416

417 **OFFICER STELTER:** Yes.

418

419 **ATTORNEY ZILAVY:** And then when the two of you left, that's when Officer Turner
420 told you that he saw McRoberts walking on the side of the street and then cross the
421 street to enter what looked like the rear of the business, correct?

422

423 **OFFICER STELTER:** No, he was already on the west side of the sidewalk, so he saw
424 him just walking up the sidewalk and make a right hand turn into the alleyway.

425

426 **ATTORNEY ZILAVY:** Okay. And you had testified that Officer Turner observed him
427 coming from the direction of where McRoberts' apartment is, correct?

428

429 **OFFICER STELTER:** Correct.

430

431 **ATTORNEY ZILAVY:** What is the distance from, approximate distance from
432 McRoberts' apartment to Fusion?

433

434 **OFFICER STELTER:** It is about one block. So it's a, he lives just across
435 West Washington, and then, excuse me, and then the Fusion is at the end of the next
436 block, so it is literally one block.

437

438 **ATTORNEY ZILAVY:** Okay. Nothing further, thank you.

439

440 **CHAIR BARUSHOK:** Thank you. Are there any, question? [Inaudible] go ahead.

441

442 **ATTORNEY DELYEA:** Was he out of breath when he arrived?

443

444 **OFFICER STELTER:** I don't recall him being out of breath.

445

446 [00:26:28]

447 **ATTORNEY DELYEA:** Okay. No further questions.

448

449 **CHAIR BARUSHOK:** Committee? You may step down.

450

451 **ALDER GLENN:** Oh, no, never mind [inaudible].

452

453 **CHAIR BARUSHOK:** Oh, we have committees. So for those watching at home, this
454 is new to most of us here. Committee members, any questions? Okay. Seeing none,
455 now you may step down. Next witness.

456

457 **ATTORNEY ZILAVY:** The City calls Agent Nicole Zautner. [Inaudible].

458

459 **CHAIR BARUSHOK:** Okay. Raise your right hand. Do you swear or affirm that the
460 testimony you are about to give shall be the truth, the whole truth, and nothing but the
461 truth?

462

463 **SPECIAL AGENT ZAUTNER:** I do.

464

465 **ATTORNEY ZILAVY:** Please state your name and spell it for the record.

466

467 **SPECIAL AGENT ZAUTNER:** It's Nicole, N-i-c-o-l-e, and last name is Zautner, Z like
468 zebra, a-u-t-n-e-r.

469

470 **ATTORNEY ZILAVY:** How are you employed?

471

472 **SPECIAL AGENT ZAUTNER:** I'm a Special Agent with the Division of Alcohol
473 Beverages.

474

475 **ATTORNEY ZILAVY:** And how long have you held that position?

476

477 **SPECIAL AGENT ZAUTNER:** I've been in that position since January of 2025, so
478 just over a year.

479

480 **ATTORNEY ZILAVY:** Do you have prior law enforcement experience?

481

482 **SPECIAL AGENT ZAUTNER:** Yes, I do.

483

484 **ATTORNEY ZILAVY:** Can you describe for the committee what that entailed?

485

486 **SPECIAL AGENT ZAUTNER:** I've been a sworn law enforcement officer since 2013,
487 so going on 13 years now. Previously, I was employed as a police officer and a
488 sergeant with the UW-Madison Police Department.

489

490 **ATTORNEY ZILAVY:** And can you describe your duties as a special agent for the
491 Department of Alcohol Beverages?

492

493 **SPECIAL AGENT ZAUTNER:** Our primary responsibility is enforcement and
494 investigation of any laws related to alcohol, primarily Chapter 125. There are some
495 stipulations in Chapter 139 as well. Some of it involves licensed establishments,
496 investigations related to breweries, wineries, other alcohol-permitted entities, including
497 wholesalers and distributors in the state.

498

499 **ATTORNEY ZILAVY:** Were you working on October 8th, 2025?

500

501 **SPECIAL AGENT ZAUTNER:** Yes.

502

503 **ATTORNEY ZILAVY:** Do you recall going to Fusion Smoke & Spirits at 36 South
504 Bassett Street at approximately 1:15 PM that day?

505

506 **SPECIAL AGENT ZAUTNER:** Yes, I do.

507

508 **ATTORNEY ZILAVY:** Why were, well, before we get to that, were you with another
509 special agent at the time?

510

511 **SPECIAL AGENT ZAUTNER:** Yes, I was.

512

513 **ATTORNEY ZILAVY:** Who was that?

514

515 **SPECIAL AGENT ZAUTNER:** Special Agent Holly McManus.

516

517 **ATTORNEY ZILAVY:** Do you typically go with another agent when you conduct
518 inspections at establishments?

519

520 **SPECIAL AGENT ZAUTNER:** Typically, yes, not always. It's not required, but we did
521 in this occasion.

522

523 [00:29:33]

524 **ATTORNEY ZILAVY:** And does this establishment, I assume, has a liquor license.

525

526 **SPECIAL AGENT ZAUTNER:** Yes, they do.

527

528 **ATTORNEY ZILAVY:** And how do you know that?

529

530 **SPECIAL AGENT ZAUTNER:** Prior to arriving on scene, I checked the City of
531 Madison online database for alcohol licenses that are issued and observed that there
532 was indeed a valid alcohol license, alcohol beverage license issued to the
533 establishment.

534

535 **ATTORNEY ZILAVY:** What type of license is it?

536

537 **SPECIAL AGENT ZAUTNER:** It is a Class A beer and a Class A liquor license.

538

539 **ATTORNEY ZILAVY:** Do you know when that license expires?

540

541 **SPECIAL AGENT ZAUTNER:** It would have been June of this year, 2026.

542

543 **ATTORNEY ZILAVY:** And do you know who the liquor/beer agent is for Fusion?

544

545 **SPECIAL AGENT ZAUTNER:** Yes, it was Robert, excuse me, Jacob McRoberts.

546

547 **ATTORNEY ZILAVY:** What did you do when you went there?

548

549 **SPECIAL AGENT ZAUTNER:** We observed the establishment was open for
550 business, and we entered the establishment and we made contact with the employee
551 working behind the counter.

552

553 **ATTORNEY ZILAVY:** And were you responding to that location just for a routine
554 inspection, or was it in response to a complaint or complaints that had been received
555 about the business?

556

557 **SPECIAL AGENT ZAUTNER:** Yeah. So prior to our arrival at the establishment, we
558 had actually several complaints about the establishment. Three had been submitted
559 directly to our division, and then one actually came from, it was forwarded from the
560 City of Madison Police Department via a Crime Stoppers tip that had come in.

561

562 **ATTORNEY ZILAVY:** And what was the nature of those complaints?

563

564 **SPECIAL AGENT ZAUTNER:** Yeah. There was multiple violations that were alleged
565 and complained about. Some of it was sales to underage customers, onsite
566 consumption of alcohol in excess of tasting allowances. There was an allegation of
567 cocaine sales potentially occurring on the premise.

568

569 **ATTORNEY ZILAVY:** Did you do any research regarding the establishment when you
570 received those complaints?

571

572 **SPECIAL AGENT ZAUTNER:** Yeah. So in one of the complaints that had come in,
573 they had mentioned their social media postings and that there might be some videos
574 that were posted online of some of the concerning behaviors and violations. I did a
575 standard social media search and found social media accounts for Fusion Smoke &
576 Spirits. And on there, indeed, there was videos of like consumption of alcohol going
577 on, on the premise and, again, not within regulations regarding tasting allowances for
578 a liquor store.

579

580 **ATTORNEY ZILAVY:** And can you let the committee know what, if an establishment
581 is going to have tastings, what are the parameters that have to be in place for them to
582 legally allow the tastings?

583

584 **SPECIAL AGENT ZAUTNER:** Yeah. So some of the regulations around that, they
585 have to happen within certain hours of day. It's very regulated as to the amount that is
586 provided to customers. It differs whether it's a wine, fermented malt beverage, or
587 intoxicating liquor. But that is very controlled and specific to statutes of how much is
588 able to be offered to a single customer in a sitting.

589

590 [00:32:36]

591 **ATTORNEY ZILAVY:** Can you describe for the committee what you observed in the
592 social media posts regarding the consumption of alcohol on site?

593

594 **SPECIAL AGENT ZAUTNER:** Yeah. So on premise, they appeared to be conducting
595 somewhat of a blind tasting kind of like competition for customers coming in where
596 they would set up full containers of alcohol to varying sizes, put a straw in them, put
597 some sort of cardboard box or obscure the labeling on the beverages, and then allow
598 customers to just drink from the containers at will without really controlling the amount
599 that's going on. It seemed to be, again, some sort of competition to see if the
600 customer could guess what the product was that they were consuming.

601

602 **ATTORNEY ZILAVY:** And were you able to observe the quantity of alcohol that was
603 being consumed?

604

605 **SPECIAL AGENT ZAUTNER:** No.

606

607 **ATTORNEY ZILAVY:** When you arrived, was the premises open for business?

608

609 **SPECIAL AGENT ZAUTNER:** Yes.

610

611 **ATTORNEY ZILAVY:** And what did you observe upon entering the establishment?

612

613 **SPECIAL AGENT ZAUTNER:** We made contact with the sole employee that was
614 working behind the main counter, and we, I identified myself, informed them why we
615 were there. And they let us know that they were the only employee behind the
616 counter and the only employee working that day.

617

618 **ATTORNEY ZILAVY:** And . . .

619

620 **ATTORNEY DELYEA:** I couldn't hear that. Sorry, could you speak just a little
621 louder? I couldn't hear you.

622

623 **SPECIAL AGENT ZAUTNER:** No worries. So I made contact with the sole employee
624 behind the counter there, identified myself, explained the reason that we were there.
625 And the employee working confirmed they were the only one working in the store that
626 day or at that time anyway.

627

628 **ATTORNEY ZILAVY:** Did you identify that employee?

629

630 **SPECIAL AGENT ZAUTNER:** Yes.

631

632 **ATTORNEY ZILAVY:** And who was it?

633

634 **SPECIAL AGENT ZAUTNER:** We identified them verbally as Jerome Luhv-Starr.
635 The identity was confirmed after the fact through our eTIME system via photo ID
636 through Department of Transportation.

637

638 **ATTORNEY ZILAVY:** And what did Luhv-Starr say to you at that time?

639

640 **SPECIAL AGENT ZAUTNER:** He readily informed us that he did not have an
641 operator's license. He recognized that he shouldn't have been having the store open
642 while he was the only one on the premise, as he didn't have an operator's license and
643 then informed us that he could call the, his manager or supervisor to come to the store
644 because he knew that he was allowed to be in the store and have it open.

645

646 **ATTORNEY ZILAVY:** And what happened next?

647

648 **SPECIAL AGENT ZAUTNER:** While he placed a phone call to what I had assumed
649 was his manager or supervisor, we ended up closing the store. I had Special Agent
650 McManus, that was with me, lock the front doors of the establishment to prevent
651 customers from coming in and effectually close the establishment. And I reviewed the
652 alcohol licenses that were posted in public view on the wall.

653

654 [00:35:28]

655 **ATTORNEY ZILAVY:** And you testified that you, that Luhv-Starr called somebody,
656 but you don't know who he called, correct?

657

658 **SPECIAL AGENT ZAUTNER:** Yeah. I mean, I didn't look at his phone to see
659 specifically who he was calling. He informed me that he would be calling the
660 manager. Yeah.

661

662 **ATTORNEY ZILAVY:** And did a manager arrive at the store at some point?

663

664 **SPECIAL AGENT ZAUTNER:** Yes. There was an individual that showed up at the
665 front door, knocked on the front door and kind of got our attention. We unlocked the
666 business to let them in. He was later identified verbally as Jacob McRoberts who was
667 the agent on the license.

668

669 **ATTORNEY ZILAVY:** And did McRoberts say anything to you in terms of no licensed
670 operator being on the premises?

671

672 **SPECIAL AGENT ZAUTNER:** Yeah. He let us know right away that he knew there
673 needed to be a licensed operator on the premise. McRoberts informed us that he
674 didn't have any other employees, or any employees at all with the establishment that
675 were issued an operator's license at that time, and that he was always at the
676 establishment.

677

678 **ATTORNEY ZILAVY:** Did he say anything to you at that time about a dog?

679

680 **SPECIAL AGENT ZAUTNER:** So I do, it was not to me directly, but Special Agent
681 Holly McManus engaged with McRoberts in a conversation about a dog, because we
682 had found a dog bed that was kind of in the customer floor area of the store. So there
683 was conversation going on that was engaged in, about a dog named Fez, that was like
684 the mascot of the store.

685

686 **ATTORNEY ZILAVY:** And you observed that the liquor license was properly posted,
687 correct?

688

689 **SPECIAL AGENT ZAUTNER:** Yes.

690

691 **ATTORNEY ZILAVY:** And did you note the premises description?

692

693 **SPECIAL AGENT ZAUTNER:** Yes, I did.

694

695 **ATTORNEY ZILAVY:** Was there anything about that that raised any issues with you
696 or caused you to ask any questions?

697

698 **SPECIAL AGENT ZAUTNER:** Yeah. I did clarify one point of the premise
699 description. So it talked about a certain square footage of the main floor that was part
700 of the premise. There was some sort of back room for storage or inventory, and then
701 a personal office was listed on the premise description.

702 Obviously, I want to be clear what the premise description is before we move
703 forward with the inspection, to know the areas we're going to go inspect. So I asked
704 McRoberts where the personal office was or what that was. And he escorted me over
705 to, it was like a back room, like open air shelving area that had a closed door with a
706 mirror on it. He called it the high-roller lounge and then opened the door and said, this
707 is my personal office. That's what covered on the license.

708

709 **ATTORNEY ZILAVY:** And is that, can you describe a, the layout of the premises, like
710 as you walk in the front door, what you see and what is there? And then in relation to
711 that, where is this high-roller lounge?

712

713 [00:38:35]

714 **SPECIAL AGENT ZAUTNER:** Yeah. So when you walk in the store, so it's a liquor
715 store and smoke shop. So it's like an open floor area where you can see shelving
716 where there's various alcohol beverages. They have display areas, where supposedly
717 hemp products and other paraphernalia are stored there. To your left is the kind of
718 main customer counter where the employee was standing behind the cash register.
719 Behind that customer counter, there's like a, kind of a cutout nook area where there's
720 like additional cabinets associated with like the back counter.

721 The high-roller lounge required you to like penetrate into the store past the
722 customer counter, turn left beyond that, and then there's a separate doorway. And,
723 again, it's like an open air shelving area, so the walls of the high-roller lounge didn't go
724 all the way up to the ceiling. You could see that it was open air above there, but it is
725 like a walled off area. And then you had to go through a door, and then it was, again,
726 like another storage area with a countertop and other various things associated with
727 the store.

728

729 **ATTORNEY ZILAVY:** So is there a separate door to get into the high-roller room?

730

731 **SPECIAL AGENT ZAUTNER:** There was, yeah. Yep. I specifically remember
732 there's like a mirror that was right on the door, so.

733

734 **ATTORNEY ZILAVY:** And was the door locked at the time?

735

736 **SPECIAL AGENT ZAUTNER:** Ooh, I don't believe it was, but I guess I don't
737 specifically recall if it was locked.

738

739 **ATTORNEY ZILAVY:** And once you entered the high-roller lounge, what did you
740 observe?

741

742 **SPECIAL AGENT ZAUTNER:** So after we clarified what the premise description was
743 by him showing me the high-roller lounge, we initiated our inspection of the premise.
744 So that means going through shelving, inspecting boxes, looking at paperwork, things
745 like that. So some of the things I immediately identified was, there's copious amounts
746 of green, leafy substance in the store. This is a smoke shop. I initially assume it,
747 maybe it's hemp product, so we continued with our inspection.

748 I did observe other items of paraphernalia. There's like smoking, glass smoking
749 pipes, scales. There was a grow tent that was in the back high-roller lounge area.
750 And then under the counter, specifically, there was vacuum-sealed bags that we
751 ended up finding what I believe to be psilocybin mushrooms contained within.

752

753 **ATTORNEY ZILAVY:** And so when you were in the high-roller room, this was just all
754 items that were out in the open on the premises?

755

756 [00:41:19]

757 **SPECIAL AGENT ZAUTNER:** Yeah. So one side had like a back shelving area. So
758 there shelving with several cardboard boxes labeled with, there was some alcohol
759 storage boxes of like alcohol brands. Some of it was like hemp products or labeled as
760 marijuana products. And then the other side is a countertop, and that's where there
761 was like the grow tent, scales, various pipes, additional packaging. So it was under
762 the countertop that was in there where there was the vacuum-sealed bags.

763

764 **ATTORNEY ZILAVY:** And when you say a grow tent, what do you mean by that?

765

766 **SPECIAL AGENT ZAUTNER:** So it's like a, I don't know the material exactly, but it's
767 some sort of material that essentially makes a tent. And then there is lighting in there,
768 and it basically creates an environment that is inductive(?) for growing green, leafy
769 substances, typically like a hemp plant or marijuana plant.

770

771 **ATTORNEY ZILAVY:** Did you ask McRoberts what that item was, what it was for?

772

773 **SPECIAL AGENT ZAUTNER:** Not specifically, no. Again, it's advertised as a smoke
774 shop. I had expected to find hemp and things associated with hemp, and so I didn't
775 really ask questions about it at the time.

776

777 **ATTORNEY ZILAVY:** And you, I think you testified that you, in addition to green,
778 leafy, and what you thought might be hemp, you also noted, noticed marijuana
779 products.

780

781 **SPECIAL AGENT ZAUTNER:** Yes. And I say that in the fact of looking at, some of
782 the labeling on the packaging had indications that most likely some of the product was
783 not actually hemp product.

784

785 **ATTORNEY ZILAVY:** Can you describe for the committee what is a legal hemp
786 product in the state of Wisconsin?

787

788 **SPECIAL AGENT ZAUTNER:** So . . .

789

790 **ATTORNEY ZILAVY:** And if you can't, I can have the detective address that.

791

792 **SPECIAL AGENT ZAUTNER:** Yeah. I might defer to the detective on that. Because,

793 again, it, that part was not really relevant to my inspection, and we did just continue

794 with our inspection in spite of those things.

795

796 **ATTORNEY ZILAVY:** And I think you also testified that you observed two bags of

797 what you thought were mushrooms.

798

799 **SPECIAL AGENT ZAUTNER:** Yes.

800

801 **ATTORNEY ZILAVY:** And why did you think that they were mushrooms?

802

803 **SPECIAL AGENT ZAUTNER:** So in my former employment as a police officer and

804 sergeant with the UW-Madison Police Department, I was certified as a drug

805 recognition expert. I have maintained that certification and am currently certified as a

806 drug recognition expert. I was also previously the narcotics canine handler for the

807 UW-Madison Police Department.

808 Previously, I have worked with the Dane County Narcotics Task Force. I've

809 been involved in multiple narcotics investigations. I'm generally familiar with narcotics

810 and controlled substances to include psilocybin mushrooms. The product contained

811 within the vacuum-sealed bags were consistent in appearance with what I know from

812 that training and experience to be psilocybin mushrooms.

813

814 [00:44:29]

815 **ATTORNEY ZILAVY:** Are psilocybin mushrooms legal to possess, sell, or use in the
816 state of Wisconsin?

817

818 **SPECIAL AGENT ZAUTNER:** No.

819

820 **ATTORNEY ZILAVY:** Are they a scheduled, controlled substance?

821

822 **SPECIAL AGENT ZAUTNER:** Yes.

823

824 **ATTORNEY ZILAVY:** Did you ask McRoberts about the suspected psilocybin
825 mushrooms that you observed?

826

827 **SPECIAL AGENT ZAUTNER:** I did, yes.

828

829 **ATTORNEY ZILAVY:** What did you ask him?

830

831 **SPECIAL AGENT ZAUTNER:** I asked him specifically if he knew what they were or
832 where they had come from. McRoberts made statements such that he didn't know
833 where they had come from, wasn't sure what the product was, how it had ended up in
834 his store.

835

836 **ATTORNEY ZILAVY:** Did he say anything about who does the ordering for the store
837 in terms of product?

838

839 **SPECIAL AGENT ZAUTNER:** Yes. So we asked clarifying questions of McRoberts,
840 and he stated very clearly that he does all the product ordering for the store. He,
841 again, mentioned that he's present at the store all the time and, again, continued to
842 maintain that he didn't know specifically how this had ended up in his store.

843

844 **ATTORNEY ZILAVY:** After you observed the items of drug paraphernalia, the green,
845 leafy substances, and the suspect psilocybin mushrooms, what did you do?

846

847 **SPECIAL AGENT ZAUTNER:** So we opted to cease the alcohol inspection at that
848 time because we believed that there was probably criminal activity going on within the
849 establishment and that we were probably going to uncover evidence of such. In an
850 effort to preserve any sort of criminal investigation that this might result in, again, we
851 opted to pause the alcohol inspection. And we reached out to the City of Madison
852 Police Department to send an officer over to see if they had any interest in pursuing
853 some sort of criminal search warrant.

854

855 **ATTORNEY ZILAVY:** And do you recall officers arriving on scene?

856

857 **SPECIAL AGENT ZAUTNER:** Yes.

858

859 **ATTORNEY ZILAVY:** And did they obtain the search warrant?

860

861 **SPECIAL AGENT ZAUTNER:** The officer that initially arrived on scene did not, but
862 they helped facilitate contact with the Dane County Narcotics Task Force, and a
863 criminal search warrant was pursued and ultimately obtained.

864

865 **ATTORNEY ZILAVY:** Did you assist in the search warrant execution?

866

867 **SPECIAL AGENT ZAUTNER:** Yes.

868

869 **ATTORNEY ZILAVY:** Did that take place on the same day?

870

871 **SPECIAL AGENT ZAUTNER:** Yes.

872

873 **ATTORNEY ZILAVY:** What did you find in the course of the search?

874

875 **SPECIAL AGENT ZAUTNER:** I mean, there was various drug paraphernalia. There
876 was large amounts of currency that was located on the establishment. A firearm was
877 located on the establishment. Large amounts of green, leafy substance which we
878 believe to be marijuana was located. The vacuum-sealed bags of psilocybin
879 mushrooms also located and confiscated. That was about it.

880

881 [00:47:34]

882 **ATTORNEY ZILAVY:** And then what happened next? Did you, in the course of this,
883 did you observe liquor law violations other than failing to have a licensed operator on
884 site when you first arrived?

885

886 **SPECIAL AGENT ZAUTNER:** Yep. So ultimately, after the criminal search warrant
887 was obtained, we did continue with the alcohol inspection and were able to complete
888 that. One of the violations we found was alcohol that was on premise that was not
889 legally obtained or accounted for via alcohol beverage invoices for the establishment.

890 On an establishment that's covered by an alcohol beverage license, any alcohol
891 has to be, has to have an invoice that basically it was received properly and legally
892 through a Wisconsin-permitted wholesaler or distributor. The alcohol we found had
893 labeling on it, that it was for a different liquor store that was not Fusion Smoke &
894 Spirits, and there was no invoice located for that alcohol. So that ended up being
895 seized as contraband in relation to this inspection.

896

897 **ATTORNEY ZILAVY:** Anything else of note in your participation in the search?

898

899 **SPECIAL AGENT ZAUTNER:** I don't think so, no.

900

901 **ATTORNEY ZILAVY:** Okay. No further questions.

902

903 **ATTORNEY DELYEA:** So . . .

904

905 **MCROBERTS:** [Inaudible].

906

907 **ATTORNEY DELYEA:** . . . there were . . .

908

909 **MCROBERTS:** [Inaudible].

910

911 **ATTORNEY DELYEA:** Oh, I'm sorry. Let's start with the alcohol that you found. Do
912 you recall how that was labeled and where it had come from?

913

914 **SPECIAL AGENT ZAUTNER:** Are you talking specifically about the alcohol that we
915 confiscated?

916

917 **ATTORNEY DELYEA:** Right.

918

919 **SPECIAL AGENT ZAUTNER:** Yep. So it was labeled as Mahen's Liquor Store
920 downtown or Mahen's Liquor, something like that.

921

922 **ATTORNEY DELYEA:** Okay.

923

924 **MCROBERTS:** [Inaudible]. Sorry.

925

926 **ATTORNEY DELYEA:** Mm-hmm. That's okay.

927

928 **MCROBERTS:** That's the guy I bought the store from.

929

930 **ATTORNEY DELYEA:** Yeah. And when you purchase a store, a liquor store, and it
931 has inventory, does the inventory go with the store?

932

933 **SPECIAL AGENT ZAUTNER:** There's a mechanism in place that a store can transfer
934 in a one-time transaction to a like incumbent purchasing store. There's certain

935 paperwork and a process that has to be followed to account for that legally. But, yes,
936 there is a mechanism that that has to happen.

937

938 **ATTORNEY DELYEA:** Okay. And that wasn't done in this case?

939

940 **SPECIAL AGENT ZAUTNER:** No. So in my conversations with McRoberts before
941 locating the ultimately seized alcohol, he had mentioned that he purchased the store
942 in 2024 from some sort of wine shop. I'm forgetting the name specifically, but, yeah.

943

944 [00:50:34]

945 **ATTORNEY DELYEA:** Mahen's Liquor sound right?

946

947 **SPECIAL AGENT ZAUTNER:** That was not the name that he had provided to me,
948 no.

949

950 **ATTORNEY DELYEA:** Okay.

951

952 **MCRBERTS:** It's not a wine shop.

953

954 **ATTORNEY DELYEA:** And so you worked for the Drug Task Force, you said, at one
955 time?

956

957 **SPECIAL AGENT ZAUTNER:** Previously, I partnered with them in my previous
958 employment, yes.

959

960 **ATTORNEY DELYEA:** So what's the difference between marijuana and hemp?

961

962 **SPECIAL AGENT ZAUTNER:** So the difference is the percentage of THC that's

963 contained within.

964

965 **ATTORNEY DELYEA:** Okay. So can you look at it and tell if it's hemp or marijuana?

966

967 **SPECIAL AGENT ZAUTNER:** No.

968

969 **ATTORNEY DELYEA:** Okay. So, and you can't smell and tell the difference, correct?

970

971 **SPECIAL AGENT ZAUTNER:** Correct.

972

973 **ATTORNEY DELYEA:** Can't tell any other way other than having it tested.

974

975 **SPECIAL AGENT ZAUTNER:** You are correct.

976

977 **ATTORNEY DELYEA:** So how is it that nobody ever asked for the certificates of

978 authenticity for the hemp that was in the store?

979

980 **SPECIAL AGENT ZAUTNER:** It was not relevant to my alcohol inspection that we

981 were conducting. And, again, observation of those things, we continued as normal

982 operating that it might be legal substances.

983

984 **ATTORNEY DELYEA:** Okay. And so if it, you know that if a bag was labeled 23%
985 THC, that doesn't necessarily mean it's over the .03.
986
987 **SPECIAL AGENT ZAUTNER:** I wouldn't be able to know that just by looking at
988 something, no.
989
990 **ATTORNEY DELYEA:** Right. So long as, if the label breaks down the various types
991 of THC, you would know to look to see if it was .03 or greater.
992
993 **SPECIAL AGENT ZAUTNER:** That could certainly be something that we observe,
994 yes.
995
996 **ATTORNEY DELYEA:** Okay. And the bags or whatever the mushrooms were in, did
997 you say they were in a, some sort of a growing box or something like that?
998
999 **SPECIAL AGENT ZAUTNER:** The psilocybin mushrooms were in vacuum-sealed
1000 bags underneath a countertop.
1001
1002 **ATTORNEY DELYEA:** So they weren't like out in the open?
1003
1004 **SPECIAL AGENT ZAUTNER:** They were, like I said, just sitting on the ground
1005 underneath a countertop.
1006
1007 **ATTORNEY DELYEA:** Okay. When you entered or, just a second [inaudible]. So is
1008 it possible that that wasn't a grow box but instead a photography box?

1009

1010 **SPECIAL AGENT ZAUTNER:** I guess I am unsure when it's partnered with the other
1011 drug paraphernalia that was observed, especially a green, leafy substance, things like
1012 that.

1013

1014 **ATTORNEY DELYEA:** And that . . .

1015

1016 **SPECIAL AGENT ZAUTNER:** These were observations I had made.

1017

1018 **ATTORNEY DELYEA:** And the drug paraphernalia that was, are you talking about
1019 the drug paraphernalia that was for sale out in the counters? So what, like . . .

1020

1021 **SPECIAL AGENT ZAUTNER:** Some of it was for sale, yes.

1022

1023 [00:53:34]

1024 **ATTORNEY DELYEA:** Right. And so you wouldn't know if it was a photography box
1025 or some sort of a grow box, correct?

1026

1027 **SPECIAL AGENT ZAUTNER:** Well, I guess if it was a photography box, I would
1028 expect to see other photography equipment. I guess I'm uncertain if that was on
1029 premise. It was certainly not noted in my report.

1030

1031 **ATTORNEY DELYEA:** Can I approach the witness? Is this [inaudible]. Does that
1032 appear to be the box that you're talking about?

1033

1034 **SPECIAL AGENT ZAUTNER:** It might be.

1035

1036 **CHAIR BARUSHOK:** Can you go back to the . . .

1037

1038 **ALDER FIGUEROA COLE:** I'm sorry. I didn't hear that question.

1039

1040 **ATTORNEY DELYEA:** So does this look similar to the box that you recall seeing?

1041

1042 **SPECIAL AGENT ZAUTNER:** I mean, it's similar in that it's square and maybe

1043 similar coloring. I don't know the material it's made of or any of that.

1044

1045 **ATTORNEY DELYEA:** The time that you were there, the dog was brought up in the

1046 conversation. Were you aware that Mr. McRoberts basically took his dog as an

1047 emergency basis to the vet?

1048

1049 **SPECIAL AGENT ZAUTNER:** Yeah. He did mention that he had left the store and

1050 hadn't been present when we arrived because of some sort of surgery that was going

1051 on with his dog.

1052

1053 **ATTORNEY DELYEA:** And so would it be fair to say, underneath the table that held

1054 what was believed to be a grow tent, were located two large plastic vacuum-sealed

1055 bags that contained what was suspected to be psilocybin mushrooms?

1056

1057 **SPECIAL AGENT ZAUTNER:** I believe that's an accurate statement.

1058

1059 **ATTORNEY DELYEA:** Okay. How do you know if mushrooms are psilocybin
1060 mushrooms or some other type?
1061
1062 **SPECIAL AGENT ZAUTNER:** As far, typically, formal lab testing is done as part of
1063 an investigation into those types of violations.
1064
1065 **ATTORNEY DELYEA:** Okay. That's all I have. Thank you.
1066
1067 **ATTORNEY ZILAVY:** Agent, you testified that also in the holy, not holy roller. Is that
1068 what it's called?
1069
1070 **SPECIAL AGENT ZAUTNER:** High-roller.
1071
1072 **ATTORNEY ZILAVY:** High-roller, sorry, high-roller room, you observed a
1073 vacuum-sealer, correct?
1074
1075 **SPECIAL AGENT ZAUTNER:** Yes.
1076
1077 **ATTORNEY ZILAVY:** And the psilocybin mushrooms were in vacuum-sealed bags,
1078 correct?
1079
1080 **SPECIAL AGENT ZAUTNER:** Yes.
1081
1082 **ATTORNEY ZILAVY:** Nothing further.
1083

1084 [00:56:32]

1085 **ATTORNEY DELYEA:** I have no questions.

1086

1087 **CHAIR BARUSHOK:** Committee? All right, seeing none.

1088

1089 **SPECIAL AGENT ZAUTNER:** Thank you.

1090

1091 **CHAIR BARUSHOK:** Next witness.

1092

1093 **ATTORNEY ZILAVY:** The City calls Detective Adam Kneubuhler.

1094

1095 **CHAIR BARUSHOK:** Do you swear or affirm that the testimony you're about to give

1096 shall be the truth, the whole truth, and nothing but the truth?

1097

1098 **DETECTIVE KNEUBUHLER:** I do.

1099

1100 **ATTORNEY ZILAVY:** Please state your name and spell it for the record.

1101

1102 **DETECTIVE KNEUBUHLER:** First name, Adam, A-d-a-m. Last name, Kneubuhler.

1103 It's K-n-e-u-b-u-h-l-e-r.

1104

1105 **ATTORNEY ZILAVY:** And you are a detective with the City of Madison Police

1106 Department, correct?

1107

1108 **DETECTIVE KNEUBUHLER:** Yes.

1109

1110 **ATTORNEY ZILAVY:** How long have you been employed by the City of Madison?

1111

1112 **DETECTIVE KNEUBUHLER:** Approximately 14 years, was promoted to detective in
1113 2018.

1114

1115 **ATTORNEY ZILAVY:** Your current assignment is with the Dane County Narcotics
1116 Task Force, correct?

1117

1118 **DETECTIVE KNEUBUHLER:** Yes, I'm a City of Madison detective assigned to that
1119 drug task force as a narcotics detective.

1120

1121 **ATTORNEY ZILAVY:** How long have you had that assignment?

1122

1123 **DETECTIVE KNEUBUHLER:** I'm in my second year.

1124

1125 **ATTORNEY ZILAVY:** Can you please give a brief description of your training and
1126 experience, especially in the area of drugs and identifying drugs?

1127

1128 **DETECTIVE KNEUBUHLER:** Well, I started out as a patrol officer. I've made
1129 hundreds upon hundreds of drug arrests as a street cop. During that time, I went to
1130 interdiction courses whether it be road interdiction, bus interdiction, airplane
1131 interdiction, airport interdiction, trainings as a uniformed officer.

1132 I also went to, I'm a graduate of the DEA Narcotics Investigators course, which
1133 is DEA is the Drug Enforcement Agency. That's a two-weeks narcotics course for

1134 long-term drug investigations involving drug trafficking organizations. I've been to
1135 numerous trainings with the high-intensity drug trafficking area in the City of
1136 Milwaukee put on by that drug task force. I, there's many more trainings that can't
1137 come to mind right now, but I've been to quite a few.

1138

1139 **ATTORNEY ZILAVY:** And you touched on it a little bit, but approximately how many
1140 drug investigations have you been involved with as your . . .

1141

1142 **DETECTIVE KNEUBUHLER:** From patrol to detective, over 1,000.

1143

1144 **ATTORNEY ZILAVY:** Are you familiar with Fusion Smoke & Spirits at 36 South
1145 Bassett Street in the City of Madison?

1146

1147 [00:59:33]

1148 **DETECTIVE KNEUBUHLER:** Yes.

1149

1150 **ATTORNEY ZILAVY:** How are you familiar with that business?

1151

1152 **DETECTIVE KNEUBUHLER:** Up until October 8th, I was not. But I received a phone
1153 call from the lieutenant of the Narcotics Task Force, who was contacted by Special
1154 Agent Zautner and MPD Patrol, about a large quantity of psilocybin and marijuana that
1155 was suspected to be illegal marijuana, found inside the store that came from fruits of a
1156 Department of Revenue Alcohol inspection.

1157

1158 **ATTORNEY ZILAVY:** Did you go to Fusion Smoke & Spirits that day?

1159

1160 **DETECTIVE KNEUBUHLER:** Yes.

1161

1162 **ATTORNEY ZILAVY:** And what did you do when you got there?

1163

1164 **DETECTIVE KNEUBUHLER:** I immediately walked in, saw Mr. Luhv-Starr seated
1165 behind the counter along with the owner, McRoberts. I contacted McManus and
1166 Zautner who had told me they've kind of froze their portion of their investigation. And
1167 they pointed out the very large amount of illicit substances in plain view, which has
1168 been talked about, underneath the box, we'll call it for now. And, you know, when I
1169 talked about, you could see psilocybin behind the counter, just right behind where the
1170 customer states(?), large quantities of it. You could see it. You could see it in the
1171 shelf behind that counter in a separate storage room.

1172 And then you saw it underneath the, what I actually believe is possibly a grow
1173 tent. But actually, I think it is actually a picture box, which I'll add for the committee,
1174 and picture boxes are often used in grow shops and marijuana operations to take high
1175 resolution pictures of marijuana. It's actually quite great photography. You can
1176 actually see the trichomes of the marijuana. You can see the resin glands of the
1177 marijuana, and it's often put out to promote your product. You know, it's definitely not
1178 for senior pictures.

1179 So basically, based on the large quantity, and I might add, it's one of the largest
1180 quantities of psilocybin I've ever seen in my career as a police officer and a detective.
1181 I've seen maybe this much on a few occasions, but this one is right up there.
1182 Basically, at that point, I realized that this appeared to be a drug trafficking operation
1183 masquerading as a liquor store. And at that point, I started to draft legal process as

1184 quickly as I could for not only the store or the premises of Fusion Smoke but also the
1185 residence of the owner, Jacob McRoberts.

1186

1187 [01:02:35]

1188 **ATTORNEY ZILAVY:** Okay. So you are the one who drafted a search warrant,
1189 correct?

1190

1191 **DETECTIVE KNEUBUHLER:** Multiple search warrants, yes.

1192

1193 **ATTORNEY ZILAVY:** And for the committee's benefit, can you explain the legal
1194 requirements for obtaining a search warrant?

1195

1196 **DETECTIVE KNEUBUHLER:** Probable cause is the legal requirement. And for the
1197 committee, probable cause, I'd say best described in legal terms, is more than a
1198 hunch, less than certainty. Probably something, a criminal activity is occurring based
1199 on specific and articulable facts based on a totality(?), totality of circumstances that
1200 a reasonable person would believe that a crime is committed, is about to be
1201 committed, or has been committed.

1202

1203 **ATTORNEY ZILAVY:** And once you draft the search warrant, what, the search
1204 warrant request, what's the process for actually getting a search warrant?

1205

1206 **DETECTIVE KNEUBUHLER:** Depending on the time of day, they've gone to a
1207 system where you, once you complete the affidavit, you will get a notary to notarize
1208 your signature. You will send it to a repository email where Dane County judges will

1209 pick the warrant out of the email system and review the warrant. And if probable
1210 cause, if they believe, based on their experiences as not only attorneys but judges,
1211 that there is probable cause to believe a crime has been committed, they will sign it,
1212 send it back to you. And then you will serve the warrant within five days of, you have
1213 to execute the warrant within five days.

1214

1215 **ATTORNEY ZILAVY:** And when was this search warrant executed, on the same . . .

1216

1217 **DETECTIVE KNEUBUHLER:** I don't know the exact time, but it was within an hour or
1218 two, at least the first one, of my arrival.

1219

1220 **ATTORNEY ZILAVY:** And was McRoberts present when the search warrant was
1221 executed?

1222

1223 **DETECTIVE KNEUBUHLER:** He may have actually been in a squad car at that time.
1224 So present but not inside the store, but he was taken out and placed in the back of a
1225 squad car.

1226

1227 **ATTORNEY ZILAVY:** And you're the primary detective on this case, correct?

1228

1229 **DETECTIVE KNEUBUHLER:** I was assigned, yes.

1230

1231 **ATTORNEY ZILAVY:** And can you briefly describe the layout of the store?

1232

1233 **DETECTIVE KNEUBUHLER:** Nickie Zautner did a pretty good job, but you'd walk in,
1234 I remember everything to the right and straight forward was either liquor and/or
1235 devices used for smoking. And for the committee, drug paraphernalia is only drug
1236 paraphernalia when a smoking device, you can prove that that device was utilized for
1237 ingesting illicit substances. So a smoking device, such as like a bong or anything, that
1238 in and of itself is not illegal.

1239 [01:05:35]

1240 So there was a, I remember a glass container, or a glass kind of display case
1241 with quite elaborate, whether it be bongs or smoking devices, kind of glass-blown
1242 objects. And then the rear, I remember the, if you look straight ahead from as you
1243 enter in the door, there's kind of a cooler where, you know, you have glass doors. To
1244 the right, you had kind of your beer. You had various places where there was bourbon
1245 and, on the shelf. To the left, you have the customer service desk, if you want to call
1246 it, with a POS system. Behind that, you have where Mr. McRoberts and Luhv-Starr
1247 were seated when I got there.

1248 There's another room in the back that contains like a, you go off to the right,
1249 and it's more of like a storage area. Prior to that, there's that red kind of glass door
1250 which, I know Miss Zautner mentioned a mirror, I don't remember a mirror, but I could
1251 be wrong. It opens, and then that was what Mr. McRoberts had told Zautner was his
1252 professional office, also known as the high-roller room or high-roller lounge, which
1253 contained the, probably the picture box/thing that slightly resembles what used to be
1254 kind of a grow tent with special lighting so you can really focus in on certain things.
1255 And that kind of goes back slightly deeper, I would say, I don't know, 10, 15 feet.
1256

1257 **ATTORNEY ZILAVY:** And when you are executing a search warrant like this and you
1258 see products that you suspect may be illegal, controlled substances, are they seized
1259 then and field tested later, or how does that work?

1260

1261 **DETECTIVE KNEUBUHLER:** So the progress is usually first a seizure when you
1262 suspect, and then they are field tested using either a true narcotic spout(?), a Mecke
1263 reagent test, which is a presumptive positive test. Then, after that, you still need
1264 confirmation, so you usually take it to the Wisconsin State Crime Lab, and they will tell
1265 you if it's THC or not. But for the current situation now with the Farm Bill loophole, you
1266 have to send it to a specialized lab that does quantitative marijuana testing.

1267 [01:08:14]

1268 This quantitative testing focuses on one thing. Is it 0.3% delta-9 THC? Is it
1269 below that, or is it above that? If it's below that, not our business. If it's above that, it
1270 is illegal in the state of Wisconsin. So that quantitative testing primarily is done in the
1271 country through NMS Labs in Pennsylvania. It's one of the premier labs in the
1272 country. They do all sorts of testing related to narcotics, drugs, substances, poisons.
1273 The Dane County Medical Examiner's Office, Office, uses that, actually, lab quite
1274 frequently for various things that come out of the Medical Examiner's Office.

1275

1276 **ATTORNEY ZILAVY:** Can you stop you for a second there?

1277

1278 **DETECTIVE KNEUBUHLER:** Yeah, absolutely.

1279

1280 **ATTORNEY ZILAVY:** And you talked about this .3%. For the committee's benefit,
1281 can you explain the Farm Bill and, because there are certain hemp products that are
1282 legal, correct?

1283

1284 **DETECTIVE KNEUBUHLER:** Sure. Yeah. So to be classified as hemp, it has to be
1285 0.3% of delta-9 THC. Now, there's all sorts of things called delta-8. There's called
1286 THCA. There's all these different things. For this committee and the purposes of my
1287 job as a law enforcement officer, the only thing we care about, matter of fact,
1288 generally, we don't enforce this stuff, because it's just everywhere.

1289 But I got called to this place, so the question is, the only thing that matters is,
1290 what is the delta-9 THC content? If it is over 0.3%, it is good, old-fashioned illegal in
1291 the eyes of the state of Wisconsin lawmakers, and until the legislature does something
1292 different, it is illegal. If it is 0.3% or below, we don't do anything about that, but you
1293 can't find that out until you do quantitative testing.

1294

1295 **ATTORNEY ZILAVY:** Okay. And [inaudible] and why do you field test items after you
1296 seize them? What's the purpose of field testing?

1297

1298 **DETECTIVE KNEUBUHLER:** To develop, you know, probable cause that it is
1299 potentially the substance that you believe it is. You know, for instance, if we see it's
1300 weed or cocaine or psilocybin, we typically test it to make sure it is what it is. Even
1301 when it's inconclusive, we still send it to the lab.

1302

1303 **ATTORNEY ZILAVY:** And is that so you're not sending bushels and bushels and
1304 bushels of green, leafy substance to the crime lab?

1305

1306 **DETECTIVE KNEUBUHLER:** Depends on the case. We'll send bushels and bushels
1307 if we need to. But it, yeah, it's just a mechanism to try and determine what we have is
1308 indeed what we suspected. And, yeah, I'm sure there is some logistical thing in there
1309 too to not overload the crime lab.

1310

1311 [01:11:34]

1312 **ATTORNEY ZILAVY:** [Inaudible] I'll go through them one by one.

1313

1314 **DETECTIVE KNEUBUHLER:** Oh, okay.

1315

1316 **ATTORNEY ZILAVY:** [Inaudible]. City Exhibits, I think it's 1 through, I didn't save
1317 myself a copy, 1 through 12. I'm showing you what's marked as City Exhibit 1. Can
1318 you identify that?

1319

1320 **DETECTIVE KNEUBUHLER:** Yeah. This was a picture taken from one of the many
1321 different packages of what we know to be illegal marijuana now. But at the time, you
1322 know, just a bag of green, leafy substance.

1323

1324 **ATTORNEY ZILAVY:** And these photographs were taken on the, at the time the
1325 search warrant was executed, correct?

1326

1327 **DETECTIVE KNEUBUHLER:** Yes.

1328

1329 **ATTORNEY ZILAVY:** And if you look at this exhibit, is there, I see that it says on
1330 there marijuana product. Would that mean that it is, in fact, marijuana and not the
1331 legal hemp?

1332

1333 **DETECTIVE KNEUBUHLER:** Well, [inaudible] it's a clue. You have to understand,
1334 so, you know, it says THC 23.34%. For me, as a detective, I look at that, and I don't
1335 come to any conclusion. Because, you know, this is just packaging. We don't know if
1336 this packaging was from some other place. Did we just reuse a bag over and over
1337 and over again? Ultimately, you know, this here, based on the totality of the
1338 circumstances, is enough to seize this item. Ultimately, we're going to have to get it to
1339 NMS Labs.

1340 When we're talking marijuana cases right now, I think that all comes to an end,
1341 at least, this could just be in my brain. In November 2026, that loophole is going to be
1342 closed. So it doesn't matter what it is. It's not going to be allowed in the state of
1343 Wisconsin. But that's to change, potentially. Who knows?

1344 But for me, every, all this packaging, this 23, it does, you know, from past
1345 investigations, this does sort of, you know, I, if I had to bet, yes, this is illegal weed just
1346 by, if this packaging was similar to this. But you can't say for sure until you actually
1347 have it tested. Typically, what you see with regular old hemp, they will be very specific
1348 about their delta-9 content in there and say 0.3%, Farm Bill compliant, blah, blah, blah.

1349 You know, but, again, that's not a guarantee. And especially, you know, a lot of
1350 this stuff comes from Michigan, Illinois, California. These are states where it's legal.
1351 And it turns out once something becomes legal, all these illegal drug dealers who, you
1352 know, decide to sell drugs, turns out it becomes harder to profit when you have to,
1353 now have to deal with state regulatory agencies, pay fees, things like that.

1354 So these people who made profits, not because they're good, savvy business
1355 owners, it's because the illegality makes the profit, they then start shipping to illegal
1356 states. So it's not uncommon to see things come from Michigan, California, Arizona.
1357 So you'll have these illegal dealers in Wisconsin go drive to get those. Obviously, it's
1358 a better deal, because the quantity is just there in Michigan. But it's just something to
1359 keep in mind and think about when you look at these packaging. But, like I said,
1360 ultimately, for my job as a law enforcement officer, I don't care where it came from.
1361 [01:15:05]

1362 I don't care what it says it is. You can't tell what it is by any packaging. The
1363 only thing is is what is the delta-9 content? And that is determined by NMS Labs. And
1364 everything that was seized from here, every item of green leafy substance that we
1365 took tested way over delta-9 0.3%, so it's illegal.

1366

1367 **ATTORNEY ZILAVY:** And going to City Exhibit 2, can you describe what's in that
1368 photo?

1369

1370 **DETECTIVE KNEUBUHLER:** Yeah, this was one of the storage areas. These little
1371 nuggets here were all in a, you know, typically, I see cereal in these, but I guess these
1372 plastic containers was a one section of a chunk of green leafy substance. And this
1373 was, samples of these were sent out to, of this chunk was sent out to the lab, and they
1374 tested positive for a delta-9 content well over 5%.

1375

1376 **ATTORNEY ZILAVY:** And when you are going through and seizing things, do you, for
1377 example, with these four containers, do you seize the containers as they are? Like do
1378 you just take those four containers and . . .

1379

1380 **DETECTIVE KNEUBUHLER:** It depends. Since these, oftentimes, when you have,
1381 you know, usually when we go into a drug house, they have it in a shoebox, or they
1382 have it stuffed away in some secret compartment. It's in one area. A place like this,
1383 apart from where the liquor and the beer was, there was drugs everywhere. There
1384 was marijuana here, marijuana there. There was THC butter or batter or concentrate
1385 wax, whatever you want to call it, which is a high-concentrate, potent THC, might I
1386 add, that also tested way over the legal limit.

1387 There was psilocybin behind the counter. There was psilocybin underneath the
1388 box. There was psilocybin, you know, on one of the employees, a small amount, there
1389 was psilocybin, it was a psilocybin party. Okay. Like I said, one of the largest, you
1390 just don't come across this unless you're into a place where there's an organized
1391 distribution of large quantities of psilocybin.

1392

1393 **ATTORNEY ZILAVY:** And going to City Exhibit 3, can you identify what's in this
1394 photo?

1395

1396 **DETECTIVE KNEUBUHLER:** So, yeah, this is the infamous box. We have two, we
1397 have vacuum-sealed bags underneath, one of which it's hard to see, the middle one.
1398 But the one on the left and the one on the bottom right is vacuum-sealed psilocybin.
1399 The psilocybin tested positive for psilocin and psilocybin. Both are Schedule 1
1400 controlled substances.

1401 And, yeah, so right out in the personal office of Mr. McRoberts, also known as
1402 high-roller room, you can see smoking devices in the back. But again, I wouldn't
1403 classify them as paraphernalia yet unless you can confirm that there is an illicit

1404 substance residue on it like that, which can be counterintuitive to some. But the, yeah,
1405 and again, the picture tent, which might I add, again, is, from my experience, I typically
1406 see some of the best photos of weed you'll ever find taken in those things.

1407

1408 [01:18:33]

1409 **ATTORNEY ZILAVY:** And going to City Exhibit 4, can you identify what that is?

1410

1411 **DETECTIVE KNEUBUHLER:** Vacuum-sealed cakes, mushrooms, psilocybin,
1412 psilocin. Usually they have psilocybin and psilocin in these when we test. White
1413 albino shrooms you can call them. These are, yeah, Schedule 1 controlled substance.

1414

1415 **ATTORNEY ZILAVY:** What is cakes?

1416

1417 **DETECTIVE KNEUBUHLER:** Just a slang term often used. It's a term from maybe
1418 mycology, which is a branch of biology dedicated to the study of fungi, spores, mold,
1419 particularly focusing on its genetics, its biological origin, things like that.

1420

1421 **ATTORNEY ZILAVY:** And were those mushrooms field tested?

1422

1423 **DETECTIVE KNEUBUHLER:** They were field tested. The presumptive test was
1424 positive. They were also taken to the Wisconsin [inaudible] Crime Lab and tested
1425 positive for psilocybin mushrooms and psilocin.

1426

1427 **ATTORNEY ZILAVY:** Okay. And going to City Exhibit 5, can you identify what that is
1428 or what that shows?

1429

1430 **DETECTIVE KNEUBUHLER:** Not 100% sure if it's the back end of the high-roller's
1431 room or the room behind that. But, yeah, you see, what you can see is THC carts,
1432 probably pre-rolled THC, I don't know, joints, cigarettes, whatever you want to call
1433 them. There is another one of those plastic containers [inaudible] containing a green
1434 leafy substance.

1435 Of note, these carts, there was a whole host of carts, different brands, Muha
1436 Meds. There was different, which is a California brand that off, almost always tests
1437 positive for THC over 0.3% in my experience. But a sample of these carts, which this
1438 particular photo doesn't have the largest quantity of carts that were taken, but these
1439 carts were a sample of one of the big batch of carts that were all the same brand,
1440 same boxes, were tested at NMS Labs and were way over the legal limit.

1441

1442 **ATTORNEY ZILAVY:** And when you say cart, is that slang for something?

1443

1444 **DETECTIVE KNEUBUHLER:** Well, it's THC carts, so it's like a, when you look at it, it
1445 will almost look like oil, but oftentimes, they're used in like vape devices and/or, you
1446 know, various smoking devices, some of which require batteries and things like that
1447 and charging and . . .

1448

1449 [01:21:07]

1450 **ATTORNEY ZILAVY:** Does cart stand for something?

1451

1452 **DETECTIVE KNEUBUHLER:** Cartridge.

1453

1454 **ATTORNEY ZILAVY:** Oh, cartridge, okay. And City Exhibit 6, can you identify what's
1455 in that photo?

1456

1457 **DETECTIVE KNEUBUHLER:** I don't know. I think that's commercialized packaging.
1458 I don't recall if there's, you know, there's these commercial, kind of like mylar, I think
1459 they're called, yeah, mylar bags, sorry, I just, I don't deal with weed as much anymore.
1460 But mylar bags and like commercial packaging where you'll have, you know, they're
1461 usually pretty colorful. Muha Meds is a popular one. Different other places in
1462 California, you get these, you just get marijuana packaged nicely and neatly, and it's
1463 very commercialized. It's a big business.

1464

1465 **ATTORNEY ZILAVY:** Is that how the legal products typically come, like just loose,
1466 and then the purchaser packages them?

1467

1468 **DETECTIVE KNEUBUHLER:** It's hard to say because some people will get large
1469 quantities of, say, legal hemp and then empty it out of their packages. Some people
1470 get large quantities of illegal drugs, like particularly this shop, and you'll empty out
1471 some, but then you'll keep some in the commercialized packaging. There was even
1472 some kind of, I would say custom home team bags that I think Fusion Smoke had. It
1473 had the Fusion design on it. Those were empty, but I think there was going to be an
1474 attempt to put some bud or marijuana in there for just selling purposes in sort of
1475 Fusion bags.

1476

1477 **ATTORNEY ZILAVY:** And City Exhibit 7.

1478

1479 **DETECTIVE KNEUBUHLER:** Got the, got some of the carts towards the bottom.

1480 You've got the illegal weed in the container, and then you've got a money counter up

1481 at the top right. And then a sealer to the left of the money counter.

1482

1483 **ATTORNEY ZILAVY:** Is a money counter something you typically see . . .

1484

1485 **DETECTIVE KNEUBUHLER:** It's something we always see in illicit businesses. In

1486 regular businesses, very rarely, but it's not uncommon for a business to, you know, if

1487 you run into a business with a money counter, and there's nothing else going on, it's

1488 not the end of the world.

1489 But it's just a, it's just something else in the totality of circumstances, that based

1490 on everything we're seeing here, this is a, an illicit drug distribution business that

1491 primarily takes a lot of cash, and they're going to have to, they're going to take, you

1492 know, they're going to have to count it. And it's much easier to count it with this thing.

1493 So in and of itself, not anything unusual.

1494

1495 [01:24:03]

1496 **ATTORNEY ZILAVY:** And the vacuum sealer is the thing to the left of the money

1497 counter?

1498

1499 **DETECTIVE KNEUBUHLER:** Yep.

1500

1501 **ATTORNEY ZILAVY:** And going to City Exhibit 8, can you identify that?

1502

1503 **DETECTIVE KNEUBUHLER:** Yeah, this is the front counter. This is the very front
1504 counter. There's glass with some lighting that displays. What you see here in these, I
1505 guess, sort of miniature mason jars is THC wax, also known as THC batter, THC
1506 concentrate. Samples of this wax was taken and sent to NMS Labs, and the sample
1507 unsurprisingly proved to be illegal delta-9 THC, well over 0.3% delta-9. And this was
1508 on display, front of the store, so the minute you walk in and look to the left, you can
1509 see this display right here.

1510

1511 **ATTORNEY ZILAVY:** And what about the prices that are showing there, did those by
1512 themselves indicate anything?

1513

1514 **DETECTIVE KNEUBUHLER:** Well, they just indicate 1 gram, yeah, like it is what it is
1515 for platinum cookie, and you'll have these kind of creative names and different flavors
1516 and stuff for a lot of this stuff. You know, 1 gram \$20, 3.5 grams \$40, 7 grams \$70.
1517 And, you know, I'm not super up on the prices these days, but oftentimes, THC
1518 concentrate, it's a very small amount, and you can get really high. The THC delta-9
1519 and that, oftentimes, people want that stuff because it's concentrated, and it's pretty
1520 potent.

1521

1522 **ATTORNEY ZILAVY:** And City's Exhibit 9, can you identify that?

1523

1524 **DETECTIVE KNEUBUHLER:** Yeah, this is the front counter, and this is, you know,
1525 lower-tier, mid-tier. That could just mean mid-tier marijuana, lower-tier marijuana. I'm
1526 not sure what the marketing is there. You've got the commercial packaging stuff

1527 midlevel. This marijuana too, from the front display, was tested, and it was illegal
1528 according to State of Wisconsin law.

1529 And, yeah, so what you'd see is the, when I first walked in, behind this counter
1530 is your two employees that were there. Well, not only, not employee but Mr.
1531 McRoberts was sitting there, and then his partner, Jerome Luhv-Starr.

1532

1533 **ATTORNEY ZILAVY:** And City's Exhibit 10, what is in that photo?

1534

1535 [01:26:45]

1536 **DETECTIVE KNEUBUHLER:** Disoriented here. That would be, looks like underneath
1537 a foldable table, just more flower and more psilocybin. That might be, based on my
1538 recollection, a more, a closer photo of underneath the tent, the square tent. Psilocybin
1539 on the right, as you see it, and then more psilocybin on the bottom left of the
1540 photograph. And then you see the flower, at the time suspected flower, but now as we
1541 know, illegal flower in the middle of the photo.

1542

1543 **ATTORNEY ZILAVY:** And City's Exhibit 11, you identify that?

1544

1545 **DETECTIVE KNEUBUHLER:** It looks like just another photo of the same, from
1546 another angle of the same with less lighting. Again, right as you walk in Mr.
1547 McRobert's office, this would be directly down, looking to your right.

1548

1549 **ATTORNEY ZILAVY:** And City Exhibit 12, what does that show?

1550

1551 **DETECTIVE KNEUBUHLER:** We've got some of the commercial stuff in the brown
1552 bags. We've got some mylar packaging behind an empty glass container. I can't tell
1553 based on this photo if there's actually flower in there or bud or anything like that. But
1554 different boxes, we've also got some alcohol boxes there intermixed with the, you
1555 know, I think we got a little Jose Cuervo there on the left. Unsure if it's open or not,
1556 but.

1557

1558 **ATTORNEY ZILAVY:** And it looks like, are those labels that are like on the round . . .
1559

1560 **DETECTIVE KNEUBUHLER:** Yeah, it looks like, sorry, I didn't pay attention to that,
1561 looks like a roll of, you know, sticky labels that have the sort of California marijuana
1562 THC symbol on it. But that, that sometimes is, doesn't really mean much. Again, you
1563 have to test the substances that are on, packaging is just packaging.

1564

1565 **ATTORNEY ZILAVY:** And again, you testified that the psilocybin mushrooms were
1566 field tested and also sent to the State of Wisconsin Crime Lab and tested positive in,
1567 well, presumptively positive by the field test, but then positive from the Crime Lab,
1568 correct?

1569

1570 **DETECTIVE KNEUBUHLER:** Yes.

1571

1572 **ATTORNEY ZILAVY:** And do you recall, I assume that you, do you weigh the product
1573 or the, what you seize?

1574

1575 **DETECTIVE KNEUBUHLER:** We do.

1576

1577 **ATTORNEY ZILAVY:** And do you recall . . .

1578

1579 **DETECTIVE KNEUBUHLER:** Sometimes, it can be so much that we, we don't have
1580 the capacity. But for this particular case, we were able to weigh the psilocybin.

1581

1582 **ATTORNEY ZILAVY:** And do you recall how much it weighed?

1583

1584 [01:29:55]

1585 **DETECTIVE KNEUBUHLER:** It was well over 500 grams. The State of Wisconsin
1586 doesn't have a statute that goes over. It's 500 and above, and at that point, they're
1587 just like, that's so much that like we don't have another tier. I believe it was
1588 approximately 2 kilos of psilocybin.

1589 So a kilo is roughly 1,000 grams. So I believe we were close to the 2,000-gram
1590 mark at that point, which based on, if you're a heavy user or an episodic user, you'll
1591 have anywhere from 600 doses to 4,000 doses of psilocybin for that quantity. So it's
1592 a, it's definitely something that's not someone's personal use. It's definitely a quantity
1593 that pretty much one would conclude that is for distribution purposes.

1594

1595 **ATTORNEY ZILAVY:** In the items that ended up being tested and tested positive for
1596 being, having an illegal amount of THC in them, were those all confined to one area of
1597 the store, or were . . .

1598

1599 **DETECTIVE KNEUBUHLER:** No, I specifically took samples from each area as to
1600 not, you know, because I'm thinking, you know, there could be, you know, there could

1601 be some hemp in here, but, you know, but I wanted to make sure. Let's get
1602 something not just from one little nugget and call it a day. Let's get a sample from
1603 each area that had large quantities of marijuana, or suspected marijuana at the time,
1604 to make sure that we don't miss anything.

1605 So, and from my recollection, there was just so much there that we probably
1606 missed stuff. There was probably stuff left behind, commercial stuff. Like the
1607 packaging, like it's just, at some point, people have to go home, and we could've been
1608 there all night.

1609

1610 **ATTORNEY ZILAVY:** And recreational marijuana is not legal in Wisconsin, correct?

1611

1612 **DETECTIVE KNEUBUHLER:** Well, the, as I kind of testified to earlier, the only thing
1613 that matters is what is the delta-9 THC content? What is the delta-9 THC content? If
1614 it is over 0.3%, it is illegal. If it is under, it is, it can be a host of different things, but it's
1615 not law enforcement's business.

1616

1617 **ATTORNEY ZILAVY:** Was any cash recovered during the search?

1618

1619 **DETECTIVE KNEUBUHLER:** Not only from the store but from personal bank
1620 accounts.

1621

1622 **ATTORNEY ZILAVY:** And what, do you recall what denominations of cash were
1623 found?

1624

1625 [01:33:05]

1626 **DETECTIVE KNEUBUHLER:** I don't recall the denominations on the store, but there
1627 were brown bags labeled that had different, whether it be days, names of people that,
1628 where cash went. And they were separated from each other. They were thin, sort of
1629 brown packaging, probably a foot long, that cash was stuffed into.

1630

1631 **ATTORNEY ZILAVY:** Does that indicate anything to you based on your training and
1632 experience in narcotics trafficking?

1633

1634 **DETECTIVE KNEUBUHLER:** In and of itself, no. But based on the totality of
1635 circumstances, I've seen this before in, again, illicit businesses, drug distribution,
1636 cash-only, paying employees only in cash, things like that, which is a whole other
1637 separate issue but not my purview.

1638

1639 **ATTORNEY ZILAVY:** So did you observe whether the cash that were in the brown
1640 paper bags, was that separate from where you would expect to find normal business
1641 proceeds?

1642

1643 **DETECTIVE KNEUBUHLER:** I don't want to say every business is normal, but
1644 typically, you find it in the till or the cash drawer. But, you know, separated out into
1645 different bags and having different denominations at all different places is, it's not
1646 normal but not in and of itself illegal.

1647

1648 [01:36:06]

1649 **ATTORNEY ZILAVY:** I've handed you what's marked as City Exhibit 13, page 1 of 2.
1650 Can you identify that document?

1651
1652 **DETECTIVE KNEUBUHLER:** Yes, this is a confidential report of laboratory findings
1653 that's authored by the Wisconsin State Crime Lab. This was from their controlled
1654 substances department. This was reference, a sampling of the six locations, a sample
1655 sent, actually, actually, it's not a sample. We took the whole chunk of material. So if
1656 you saw, we had a roller cart with like four plastic bags on it. We had another area
1657 that had vacuum-sealed bags of flower and psilocybin.

1658 We had various spots throughout, behind the customer counter, with marijuana
1659 on it. These were taken. These were grouped into Evidence Items 1, 3, 4, 5, 6, etc.,
1660 etc., and they were taken to the State Crime Lab. I don't see the tag numbers that
1661 they have, but they wouldn't have that. That's going to be an in-house MPD tag
1662 number.

1663

1664 **ATTORNEY ZILAVY:** And this report shows that the psilocybin tested positive,
1665 correct?

1666

1667 **DETECTIVE KNEUBUHLER:** Yep. So the smaller of the two bags, I took one bag
1668 there, and the chemist at the Wisconsin State Crime Lab identified it as psilocybin and
1669 psilocin. So you'll see that at the very bottom under Item 1. That's the weight of 913.9
1670 grams plus or minus 0.3. It was identified as psilocybin in the corresponding row.

1671

1672 **ATTORNEY ZILAVY:** And you also testified that when you take the product that field
1673 tested positive for THC to the Crime Lab, they can confirm that it's THC, but they can't
1674 tell you if it is over the legal limit, correct [inaudible]?

1675

1676 **DETECTIVE KNEUBUHLER:** That is, that is correct.

1677

1678 **ATTORNEY ZILAVY:** Okay. And this report shows that Samples 3, 5, and 6 were
1679 positive for THC, correct?

1680

1681 **DETECTIVE KNEUBUHLER:** Positive for the presence of THC, unknown amounts,
1682 quantities, what type, but, well, this one shows positive for delta-9, but it's unable to
1683 determine where it at in the spectrum, whether it's 0.1, making it legal or 70% for all
1684 we know. There's just no way to tell with the crime lab testing, with the state right
1685 now.

1686

1687 [01:38:48]

1688 **ATTORNEY ZILAVY:** And you touched on it earlier, but since we're now going to look
1689 at City's Exhibit 14, that refers to the lab that you testified about earlier. And can you
1690 explain, based on what you received from the Wisconsin Crime Lab, why did you send
1691 samples to this lab?

1692

1693 **DETECTIVE KNEUBUHLER:** Yep. Sorry. As again, due to the sort of the fence
1694 being 0.3% delta-9 THC, we have to send it out to a specific lab for quantitative
1695 testing. So what that does is it determines the amount of delta-9 THC. And to save
1696 them money and time, they just said, you know what? We're just going to go above
1697 5%. If this item has above 5%, by weight, it's illegal anywhere where there's not full
1698 legalization.

1699 So if you see Lab Item 1, Lab Item 2, the delta, the only thing, for the purposes
1700 of my job and enforcing the law is the second line underneath, well, marijuana and

1701 marijuana is delta-9 THC, full connotation, greater than 5. Lab Item 1, sample of that
1702 is illegal. So you can go down to number 2, and then on the back side, you'll see an
1703 entire list of all the substances that samples of that substance is for the marijuana,
1704 suspected marijuana.

1705 This lab confirmed that every sample from every portion of flower and rosin or
1706 wax concentrate and cart I took was illegal. So the cart, there was a giant box of
1707 carts. I took one of the carts, sent it to NMS Labs, illegal delta-9. I took the wax. That
1708 is going to be number 7, I believe, on this, and that was again greater than 5% by
1709 weight.

1710 Then after that, I spoke to the author of this report. Bridget was her name,
1711 who's a chemist out there. I believe her last name was Weinhert(?), I believe, and
1712 confirmed with her that what I'm seeing is legit. And she was like, oh, yeah. And the
1713 reason why I called because I was just like, I like just the, it's bold. It's bold to just
1714 have this out there and just straight illegal, hiding in plain sight, so.

1715

1716 **ATTORNEY ZILAVY:** And in looking at the report, where it says confirmed, and then
1717 it says greater than 5.0 by weight THC, a greater than 5.0 by weight. And then it says
1718 weight. And then it says plus or minus, what does . . .

1719

1720 [01:41:48]

1721 **DETECTIVE KNEUBUHLER:** That's the, yep, that's the weight of the sample, and
1722 that is, you know, their scale may have a margin of error of plus or minus 0.06. So,
1723 yeah, that's pretty much it. it's pretty straightforward. And again, for the purposes of
1724 my job and criminal investigations with the District Attorney's Office, the delta-9 THC
1725 line is the only thing anybody cares about in those two worlds.

1726

1727 **ATTORNEY ZILAVY:** And again, every one of these samples confirmed that the
1728 product contained an illegal amount of THC, correct?

1729

1730 **DETECTIVE KNEUBUHLER:** Correct, delta-9 THC because there's a whole host of
1731 different kinds.

1732

1733 **ATTORNEY ZILAVY:** Yep. And given the location of all of the product that you
1734 seized and tested, in your opinion as a narcotics detective, is there any way that a
1735 business owner or person purported to always be on the premises, is there any way
1736 that they would not be aware of the suspect controlled substances and the packaging
1737 equipment and the . . .

1738

1739 **DETECTIVE KNEUBUHLER:** Well, I think I said this during the preliminary hearing,
1740 you would have to be completely blind, eyesight not working, to miss the sheer
1741 amount of psilocybin here, just that alone. I mean, it's psilocybin. And then, you
1742 know, there's flower everywhere. Of course, you know, the game is right now is, oh, I
1743 thought it was THC A, less than 0.3%. I didn't know.

1744 But, you know, that's what we see, time and time again. And, you know,
1745 maybe there's some people that are, you know, duped by it, but based on his history,
1746 you know, and the tips we received from this place, not only selling to underage
1747 people. I think there was a tip about an under-ager that was hospitalized as buying
1748 alcohol there. There was, you know, we've had, we've had . . .

1749

1750 **CHAIR BARUSHOK:** Can you state what you want to say?

1751

1752 **ATTORNEY DELYEA:** I just object because it's outside of the amending complaint.

1753

1754 **CHAIR BARUSHOK:** Okay. Well, thank you, the objection is noted. You may
1755 continue.

1756

1757 **DETECTIVE KNEUBUHLER:** Yeah, just the sheer amount of tips, not only with his
1758 history. I mean, the Dane County Narcotics Task Force has gotten tips on his illicit
1759 operation since early 2022. We continue to get tips on it still conducting illicit
1760 operations, storing large quantities of cash in storage facilities throughout the city in
1761 other people's names, co-conspirators, including his employees, and based on the
1762 amount of assets seized that are not commensurate with his reported income.

1763

1764 [01:45:20]

1765 **ATTORNEY ZILAVY:** And I'll stop there.

1766

1767 **DETECTIVE KNEUBUHLER:** Yeah, well . . .

1768

1769 **ATTORNEY ZILAVY:** So you testified that you also got a search warrant for his
1770 apartment, correct?

1771

1772 **DETECTIVE KNEUBUHLER:** Yes.

1773

1774 **ATTORNEY ZILAVY:** And is his apartment in close proximity to the store?

1775

1776 **DETECTIVE KNEUBUHLER:** Yes, it's a block down. It's a very nice, kind of luxury
1777 high-rise apartment, I think on the fifth floor to be exact. A search warrant was
1778 drafted. A judge determined that probable cause exists, that a crime was committed.
1779 And the fruits of that crime are probably located inside Mr. McRobert's residence.

1780

1781 **ATTORNEY ZILAVY:** And did you then execute that search warrant?

1782

1783 **DETECTIVE KNEUBUHLER:** City of Madison SWAT did, and then I followed with
1784 other detectives and/or uniformed officers.

1785

1786 **ATTORNEY ZILAVY:** What was seized in the course of the execution of that search
1787 warrant that, in your opinion as a narcotics detective, supports . . .

1788

1789 **DETECTIVE KNEUBUHLER:** Financial documents. There was a firearm, but that in
1790 and of itself is not, you know, Second Amendment, you should be able to own a
1791 firearm if you're not a felon. The, there was numerous high-end assets, such as
1792 watches. There was, I may have lost track the number of Rolexes, four, five, six
1793 Rolexes, most of them average price or \$8,000 to \$10,000. He was booked in with a
1794 \$60,000 watch on his wrist. It was appraised at, I think, \$40,000 by Skalitzky
1795 Jewelers.

1796 You total up just simply the assets in jewelry, it's more than what he reported to
1797 make, combined with his income in his Summit Credit Union account, that it's just not
1798 commensurate with the reported earnings, let alone who knows how many employees
1799 he has because he wouldn't identify his employees. So based on my, maybe there's
1800 something there. I know dad got him started in this, helped him get started in this.

1801

1802 **ATTORNEY ZILAVY:** When you say he wouldn't identify his employees, what do you
1803 mean?

1804

1805 **DETECTIVE KNEUBUHLER:** We asked how many people he employed, and he
1806 didn't want to talk to us. He wouldn't give us the employees' names. And he asked
1807 for a lawyer, which I'm all for. But the, you know, based on all of this, with what I'm
1808 seeing, this is an illicit dealer that is trying to go legit and launder money through a
1809 liquor store. And, you know, that's just what it is. And if it's, if just, hypothetically, let's
1810 just say I'm wrong, based on my training and experience, and I'm wrong, and he's just
1811 oblivious to all of this, well, then not somebody you want selling liquor.

1812

1813 [01:48:04]

1814 **ATTORNEY ZILAVY:** And in the course of executing the search warrants and
1815 working on this investigation, did you become aware of a previous investigation into
1816 Mr. McRoberts and illicit drug sales?

1817

1818 **DETECTIVE KNEUBUHLER:** Yes. So again, I work for the Dane County Narcotics
1819 Task Force. Our mission statement is to dismantle drug trafficking organizations. And
1820 particularly, we focus on meth, heroin, crack cocaine, cocaine sales. Not on the top of
1821 the list is marijuana dealers, okay. So we've been, we had, you know, anonymous
1822 tips come in about him starting in 2022. Particularly, Verona Police had a mother of a
1823 14-year-old girl that was buying drugs from McRoberts as he was quoted in her phone
1824 saying to his phone, or the number belonging to him, that he was famous as ASF,
1825 which you guys know what that means.

1826 Maybe you don't, as I'll say fuck here I guess, for the purpose of the record,
1827 because he was selling illicit substances, according to his phone, LSD, illegal
1828 marijuana, shrooms, gel-tab LSD, carts, and this was photographs were taken from
1829 the 14-year-old's phone that showed in 2022 the phone number that she was
1830 receiving these texts from about purchasing drugs and his drug menu, which was on
1831 Telegram, which based on training experience, is often used through drug dealers
1832 because of the inscription associated with those applications, he had a menu. And
1833 then that phone number that was on the daughter's phone that Verona Police took
1834 was the same number he gave to me in my interview room.

1835 Because, you know, he wasn't fully uncooperative. But he gave me his name,
1836 his date of birth, his phone number, things like that. And that phone number was the
1837 same number in 2022, where this mother reported that her kid was buying drugs from
1838 McRoberts, such as psilocybin mushrooms and things like that.

1839

1840 **ATTORNEY ZILAVY:** And how did you become aware of that investigation?

1841

1842 **DETECTIVE KNEUBUHLER:** Well, we looked, I looked through, you know, old tips
1843 that came through and saw that he, his name came up. And again, at the time,
1844 probably ignored because we're focusing on heroin, meth, things that are more of a
1845 problem in the community, and saw that he grew up in a very nice home in Verona,
1846 thought that, okay, well, maybe this kid went to Verona High School. Hey, Verona PD,
1847 do you have any contacts with this kid? And they immediately said, oh, yeah, here's
1848 this quite fruitful case file that showed his drug activities prior to owning the store.

1849

1850 [01:51:02]

1851 **ATTORNEY ZILAVY:** And do you know, did Verona ever charge him in that incident,
1852 or what happened?

1853

1854 **DETECTIVE KNEUBUHLER:** Verona passed the case on to the Dane County
1855 Narcotics Task Force. The Dane County Narcotics Task Force did not do anything
1856 with it because of, again, focusing more on, there's plenty of meth, coke, and heroin
1857 dealers to go around to keep us busy.

1858

1859 **ATTORNEY ZILAVY:** And in the course of the investigation, related to Fusion, did
1860 you interview or participate in an interview of Jerome Luhv-Starr?

1861

1862 **DETECTIVE KNEUBUHLER:** Detective Cory Nelson did that interview. I was kind of
1863 standing by with him in the room.

1864

1865 **ATTORNEY ZILAVY:** And do you recall what Luhv-Starr said in terms of working at
1866 Fusion, how long he's worked there?

1867

1868 **DETECTIVE KNEUBUHLER:** I think he said he had worked there for approximately a
1869 year to Detective Nelson. He stated that he worked there, a give or take estimate,
1870 three to six hours a day. He said that McRoberts would be there every day with him at
1871 least half of his shift. Did not identify other employees such as Kiren Hanson(?) up
1872 here. He didn't, he denied knowing anything about psilocybin, despite him having a
1873 very tiny quantity of psilocybin on him.

1874 He, at one point, sort of owned up to the small amount of psilocybin on him and
1875 stated that the other stuff, that's not him. McRoberts does the ordering. And at that

1876 point, when we asked further questions, once we started to get into the brass tacks of
1877 it, he stated that he didn't want to talk. And he may have actually asked for a lawyer
1878 because we were getting into the obvious nature that this was probably a drug dealer
1879 with co-conspirators operating out of a business in plain sight.

1880

1881 **ATTORNEY ZILAVY:** And did Luvh-Starr tell you how he gets paid in the course of
1882 his employment at Fusion?

1883

1884 **DETECTIVE KNEUBUHLER:** Cash.

1885

1886 **ATTORNEY ZILAVY:** Did he say when he gets paid?

1887

1888 **DETECTIVE KNEUBUHLER:** If I recall correctly, I believe he said at the end of each
1889 shift.

1890

1891 **ATTORNEY ZILAVY:** But gets paid cash.

1892

1893 **DETECTIVE KNEUBUHLER:** I believe so.

1894

1895 [01:54:24]

1896 **ATTORNEY ZILAVY:** Were you aware of the District Captain Kipp Hartman sending
1897 a Notice of Public Nuisance to the property owner of 36 Sout Bassett Street as a result
1898 of the search warrant execution and the evidence seized?

1899

1900 **DETECTIVE KNEUBUHLER:** Yes. And I know from prior experience as a
1901 neighborhood officer that any time a drug-related search warrant is served upon a
1902 presidents, premises, and a judge has signed that warrant, and it's executed, the
1903 nuisance abatement process starts.

1904 So basically, the landlord or property owner essentially has to remedy the
1905 issue, or otherwise, the City will eventually, worst-case scenario, work towards suing
1906 them. So because of this happening, basically, the Keller Group is, one way or
1907 another, going to have to get rid of him out of this building. Otherwise, they will face
1908 the City of Madison and attorneys and eventually hit their pocketbook.

1909

1910 **ATTORNEY ZILAVY:** So based on the totality of the evidence and the
1911 circumstances, is it your opinion, as a seasoned detective and detective of the Dane
1912 County Narcotics Task Force, that McRoberts was trafficking illegal Schedule 1
1913 controlled substances out of 36 South Bassett Street?

1914

1915 **DETECTIVE KNEUBUHLER:** Yes. It's obvious that that's occurring, and it's been
1916 occurring prior to that store opening with evidence from screenshots from his phone,
1917 dating back in 2022. So we know it started then. Of note, this, there's actually a
1918 decent level of sophistication to this.

1919 You, the phone on Telegram had what's called the Fez menu. If you heard, if
1920 you recall that name, Fez menu, you click on it, it actually gives you pricing and
1921 shipment fee, where it can be delivered, whether it be LSD, shrooms, drugs, or
1922 marijuana. And the profile picture behind it is actually, for those HBO fans, is a picture
1923 of a guy named Fezco O'Neill, who is a character in the show *Euphoria*, who's actually
1924 a loser dropout high school guy who sells drugs.

1925 [01:57:00]

1926 So this is also the name of his pet in his store, who has been deemed by
1927 people in the comment section as the mascot of the store. So the pet is named Fez.
1928 The plate on his GMC is named Fez. So *Euphoria* is a great show, but clearly, there's
1929 an affinity for a drug dealer who was lovable by all, by Mr. McRoberts. And, yeah, and
1930 there's screenshots that, from this phone that sort of corroborate, hey, I can deliver
1931 here. I can deliver there. Unless someone else owned this phone number at the time,
1932 which Verona PD checked, and Mr. McRoberts owned it. And it's also the same one
1933 that he gave me during my interview.

1934 This is a continuation of illicit drug dealing, starting with kids at Verona, and
1935 getting into now the public square. Because if, you know, again, not a drug dealer, but
1936 if I was, I wouldn't want to be doing back-alley deals. I'd rather have a storefront and
1937 then start to get other people involved with it to insulate yourself. That's what people
1938 do, such as employees. And whether they know it or not, this is just typical of
1939 someone trying to make money by breaking the law.

1940

1941 **ATTORNEY ZILAVY:** Okay. Nothing further from the City.

1942

1943 **ATTORNEY DELYEA:** Would you put Exhibit 1 back up please? It's my
1944 understanding that all of the flower that you found in the store was illegal. Was that
1945 your testimony?

1946

1947 **DETECTIVE KNEUBUHLER:** Not exactly. The flower, from the chunks, so out of the
1948 five or six areas that there was large quantities of flower taken, those were tagged as
1949 one, tagged as another set, tagged as another set. Samples of that flower were

1950 taken, initially tested at the crime lab, delta-9 positive, doesn't matter, then taken to
1951 NMS Labs, delta-9 positive.

1952

1953 **ATTORNEY DELYEA:** Is this one of them?

1954

1955 **DETECTIVE KNEUBUHLER:** What's that?

1956

1957 **ATTORNEY DELYEA:** Was that package one of them?

1958

1959 **DETECTIVE KNEUBUHLER:** I don't recall which grouping that was in, but it was
1960 probably in a cluster of some of the drugs.

1961

1962 **ATTORNEY DELYEA:** Okay. With your experience, you're probably familiar with the
1963 changes brought about by the hemp laws, correct?

1964

1965 **DETECTIVE KNEUBUHLER:** Somewhat familiar, yeah.

1966

1967 **ATTORNEY DELYEA:** You know about the [inaudible].

1968

1969 **DETECTIVE KNEUBUHLER:** Familiar enough. Familiar enough to know what I need
1970 to do for my job to determine if something is legal or illegal, or legal or illegal.

1971

1972 [02:00:02]

1973 **ATTORNEY DELYEA:** So are you aware that when people buy hemp products, that
1974 they come with certificates of analysis?

1975

1976 **DETECTIVE KNEUBUHLER:** I can, but when people buy hemp products, you don't
1977 know if they're hemp until it's tested. So like I said, with the, with, so these places all
1978 across the country, particularly Illinois, Michigan, California, where these items are
1979 bought in bulk, very cheap prices, these companies that are doing this and shipping it
1980 in the mail and doing all of these different things, they often know to even fabricate
1981 certificates when they go to, say, state of Wisconsin because we know we got to say,
1982 you know, I've seen delta-9 certificates with delta-9 THC, 0.2%, Farm Bill compliant.
1983 Well, then you test it, it's all illegal.

1984 So it's just like I don't pay attention to certificates because they're essentially
1985 irrelevant. I pay attention to here's what we suspect is weed. The only way, we can
1986 talk about papers, we can talk about what the person says or this and that, the only
1987 way we can do things is send it to a lab that does quantitative testing to determine
1988 what the delta-9 content, and in this case, it was NMS Labs. The only other lab I know
1989 of that does it is UW-Parkside actually has a lab. But they take forever. And due to
1990 the speedy trial request that you filed, we had to get it to NMS Labs.

1991

1992 **ATTORNEY DELYEA:** All right. Do you have any proof at all, anything at all to
1993 suggest that that package had something different in it than what came in it?

1994

1995 **DETECTIVE KNEUBUHLER:** What do you mean?

1996

1997 **ATTORNEY DELYEA:** The package up there on the screen, do you have any proof
1998 at all that Mr. McRoberts changed the contents, added something illegal to it?

1999

2000 **DETECTIVE KNEUBUHLER:** I don't know.

2001

2002 **ATTORNEY DELYEA:** That's a yes or no question. You either have proof, or you

2003 don't.

2004

2005 **DETECTIVE KNEUBUHLER:** Well, I don't have proof, but I don't have something to

2006 disprove either.

2007

2008 **ATTORNEY DELYEA:** Okay. So if I were to tell you that Badger Labs has a

2009 certificate of analysis that shows that as being .2315 THC-9, would you disagree with

2010 me? I'm sorry [inaudible]. And while we're at it, you might want to browse through

2011 these.

2012

2013 **DETECTIVE KNEUBUHLER:** What is the number that you just said?

2014

2015 **ATTORNEY DELYEA:** I'd have to look at that.

2016

2017 **DETECTIVE KNEUBUHLER:** Okay.

2018

2019 **ATTORNEY DELYEA:** The number was .2315. Sorry. The number on the delta-9 is

2020 .2315.

2021

2022 [02:03:02]

2023 **ATTORNEY ZILAVY:** I'm going to object to these reports because I have no idea

2024 who created them, whether the labs that they purport to be from are legitimate labs.

2025 There are ways to drill down and determine whether they are legitimate, but I do know
2026 that certificates of analysis, it's not unusual for them to be fake, and there are a variety
2027 of red flags that are associated with the certificates of analysis. And without knowing
2028 whether it is, in fact, a certified lab, I don't think it's appropriate to put that before the
2029 committee.

2030

2031 **ATTORNEY DELYEA:** [Inaudible] helpful for the committee to take a look at perhaps
2032 one or many of these, they came with every [inaudible]. Yeah?

2033

2034 **CHAIR BARUSHOK:** Do you have an electronic copy that you can provide me? Do
2035 you want to testify to their authenticity?

2036

2037 **ATTORNEY DELYEA:** [Inaudible].

2038

2039 **CHAIR BARUSHOK:** Sorry.

2040

2041 **ATTORNEY DELYEA:** We were attempting to get someone here. He wasn't able to
2042 come. But he said that he would be able to appear by Zoom. And, but I'm not sure if
2043 he would know about this particular one, but he's a hemp distributor and provided
2044 most of these.

2045

2046 **CHAIR BARUSHOK:** Well, the objection can be noted for the record anyway. Go on.

2047

2048 **ATTORNEY DELYEA:** Okay.

2049

2050 **ATTORNEY ZILAVY:** If he's going to refer to a bunch of those in evidence though, I
2051 should have a copy of each one that he's going to use in his case.

2052

2053 **ATTORNEY DELYEA:** I will.

2054

2055 **ATTORNEY ZILAVY:** And it's, it's not really fair if I don't have one to look at. The
2056 standard practice that you provide a copy to opposing counsel.

2057

2058 **ATTORNEY DELYEA:** That is actually true, which brings us back to one other issue.
2059 I did bring the medical records that were requested. And I apologize for not being
2060 more prepared, but I really have been trying to catch up from being sick for a very long
2061 time. And I only have one copy of these as well.

2062

2063 **CHAIR BARUSHOK:** Is there any [inaudible]?

2064

2065 [02:05:58]

2066 **ATTORNEY ZILAVY:** What is that?

2067

2068 **ATTORNEY DELYEA:** It's medical records [inaudible].

2069

2070 **ATTORNEY ZILAVY:** Well, that's irrelevant to the, what we're currently doing, so.

2071

2072 **CHAIR BARUSHOK:** Mr. Verbick, is there [inaudible]?

2073

2074 **ATTORNEY ZILAVY:** I'm also just going to note for the record that this hearing, I
2075 believe, has been scheduled for about 60 days now, and it's a little ridiculous that he's
2076 that unprepared to share exhibits.

2077

2078 **CHAIR BARUSHOK:** Can you, how about this? Mr. Verbick said he could make
2079 copies.

2080

2081 **ATTORNEY ZILAVY:** I object to that. I, given that this has been scheduled and
2082 rescheduled, I see absolutely no reason why he could not take responsibility to make
2083 copies of the exhibits and have them available.

2084

2085 **CHAIR BARUSHOK:** Okay. Any other committee members want to weigh in? Yeah,
2086 I think Attorney Zilavy makes a good point.

2087

2088 **ATTORNEY DELYEA:** I think you should look at the [inaudible] before you make that
2089 point because . . .

2090

2091 **CHAIR BARUSHOK:** You can take that. That's not where we're at now, but you can,
2092 I mean, we're going to have to get that eventually.

2093

2094 **ATTORNEY DELYEA:** Okay.

2095

2096 **CHAIR BARUSHOK:** But it's not my main concern right now. I think I agree with
2097 Attorney Zilavy on this one with the, there's no one to testify, and there's, it's not, she
2098 objects to taking a break to make copies. So I guess we'll go . . .

2099

2100 **ATTORNEY DELYEA:** I believe that we would just need two pages copied.

2101

2102 **CHAIR BARUSHOK:** Just two pages of it?

2103

2104 **ATTORNEY DELYEA:** Yeah. I don't think that the others are necessary.

2105

2106 [02:09:00]

2107 **CHAIR BARUSHOK:** Let's just, let's move on without it.

2108

2109 **ATTORNEY DELYEA:** Okay.

2110

2111 **CHAIR BARUSHOK:** So please continue.

2112

2113 **ATTORNEY DELYEA:** So, Detective, there was a safe in the store. Do you recall

2114 seeing that safe?

2115

2116 **DETECTIVE KNEUBUHLER:** No.

2117

2118 **ATTORNEY DELYEA:** Okay.

2119

2120 **DETECTIVE KNEUBUHLER:** And there may have been. I just don't recall it at this

2121 moment in time.

2122

2123 **ATTORNEY DELYEA:** Okay. So . . .

2124

2125 **DETECTIVE KNEUBUHLER:** I know if there was a safe, there's a guy I work with
2126 that if there's a safe, and we have a warrant, he's going to want to break into it and
2127 make a show of it, so I do not remember the safe.

2128

2129 **ATTORNEY DELYEA:** Okay. That may very well be true. It was behind the door.
2130 Did you ever ask about certificates of analysis?

2131

2132 **DETECTIVE KNEUBUHLER:** Well, I tried to ask about a lot of things, but he wouldn't
2133 speak to me without a lawyer. And the only thing I obtained was his phone number
2134 and name and date of birth and the address I obviously knew of. I don't, I remember
2135 my report basically saying, you know, when someone asks for a lawyer, I kind of, I, I
2136 cut it right there.

2137 But as I've stated before, and if it's not obvious, certificates of analysis don't
2138 mean anything. The only thing that means something is what the final lab test says
2139 through NMS Labs or the certified labs that actually specialize in quantitative testing.
2140 So again, like I've said, illicit businesses will have fake anything. You're talking about
2141 criminal elements here that are, by definition, don't follow the rules.

2142 So when someone says, oh, I have a certificate, it's just like, my assumption is
2143 with the place, I go, well, where was this made up at, do you know? Now, until proven
2144 otherwise, I, you know, I don't see it. But the testing confirms that, regardless of what
2145 any certificate says, the stuff is illegal. So this isn't a nuanced issue that requires an
2146 extensive analysis. This is a straight-up drug front.

2147

2148 **ATTORNEY DELYEA:** And so are you aware that as hemp sits over time, that there
2149 is decarbonization? Are you familiar with that?

2150

2151 **DETECTIVE KNEUBUHLER:** I'm familiar with what I'm required to know, what is
2152 illegal and legal. So decarbonization, sitting there, you know, unless that causes the
2153 delta-9 THC content to just skyrocket, then you may be on to something. But as far as
2154 I'm aware, that's not the case.

2155

2156 **ATTORNEY DELYEA:** So just one moment. You have a state crime lab, correct,
2157 where you sent these originally for testing?

2158

2159 **DETECTIVE KNEUBUHLER:** Do I have a state crime lab?

2160

2161 [02:12:00]

2162 **ATTORNEY DELYEA:** You used the state crime lab . . .

2163

2164 **DETECTIVE KNEUBUHLER:** Yes.

2165

2166 **ATTORNEY DELYEA:** . . . initially.

2167

2168 **DETECTIVE KNEUBUHLER:** Yeah.

2169

2170 **ATTORNEY DELYEA:** And they send you to another lab.

2171

2172 **DETECTIVE KNEUBUHLER:** Well, they don't send me. I know that, per the District
2173 Attorney's Office, they still want us to go to the state crime lab, so the psilocybin, the
2174 state crime lab is sufficient for psilocybin and psilocin. The weed, okay, yes, they can
2175 tell us if it's, there's a delta-9 content there, which could be one of 10 different types or
2176 20, 30 different things in that alleged THC or suspected THC. So based on that, if the
2177 DA's office is pursuing a criminal case, in a case like this, they will send it to NMS
2178 Labs is their, the Dane County District Attorney's office preferred lab to use.

2179

2180 **ATTORNEY DELYEA:** Okay. So assuming, just for argument's sake, that he did
2181 have certificates of analysis that that was actually matching that particular bag. Can
2182 you say, through some knowledge that you have, that the THC-9, delta-9 content
2183 doesn't increase over time?

2184

2185 **DETECTIVE KNEUBUHLER:** Well, I cannot say, but I can say at the lab. So if it,
2186 either way, if it gets over 0.3%, it's illegal. So if that's the case, he's going to have to
2187 offload hemp as fast as humanly possible because if it sits there, all of a sudden, his
2188 legal operation becomes an illegal operation. As far as I know, from talking to hemp
2189 dealers, that's not the case. But I can't speculate on that.

2190 All I can speculate on is at October 8th, City of Madison, County of Dane, at the
2191 time of the search warrant and the time that was seized, presumptive positive test,
2192 and within so many days, this went to the NMS Labs and showed that it was illegal.
2193 Combined with all of the evidence of illicit dealing in his history, it's pretty clear what's
2194 going on here.

2195

2196 **ATTORNEY DELYEA:** Okay. I don't have any, you keep referring to all these tips.

2197 Can you show us any of that evidence?

2198

2199 **DETECTIVE KNEUBUHLER:** Well, the Dane County District Attorney's office has

2200 provided you with discovery, which shows, they should have if the trial is not too far

2201 away, so you should have at least the first batch of discovery, which contains the

2202 Verona Police Report, which shows . . .

2203

2204 **ATTORNEY DELYEA:** [Inaudible] nothing.

2205

2206 **DETECTIVE KNEUBUHLER:** It shows the evidence of his illicit drug dealing to kids

2207 at Verona High School. You will also know, as an experienced attorney over many

2208 years, that Crime Stoppers' tips are anonymous and are not part of anything. We

2209 don't even get to know much about them. So an anonymous tip is anonymous tip. It's

2210 not evidence of guilt. It's not evidence that it's true. It's something that we take with a

2211 grain of salt that we have to follow up on. And based on those tips, combined with

2212 what we have here and all the evidence discovered through my investigation, it's clear

2213 those tips were probably pretty accurate.

2214

2215 [02:15:07]

2216 **ATTORNEY DELYEA:** Okay. So how exactly is it that you believe that these tips are

2217 accurate, that there was somebody underage in the store that bought alcohol, how

2218 would you even know that?

2219

2220 **DETECTIVE KNEUBUHLER:** I don't know that. It's just, it's just a tip.

2221

2222 **ATTORNEY DELYEA:** Yeah. Okay. So going back to the various hemp products,
2223 they were all relatively, they're over 5%, and you did that because it was cheaper. But
2224 regular marijuana generally has a THC that's much higher, does it not?

2225

2226 **DETECTIVE KNEUBUHLER:** Well, there's no general THC. There's all different
2227 kinds.

2228

2229 **ATTORNEY DELYEA:** Okay.

2230

2231 **DETECTIVE KNEUBUHLER:** And the only thing that delta-9, only thing is I'm
2232 concerned about is delta-9 for, again, I hate to sound like a broken record, but if it's
2233 over 0.3%, it's illegal. So delta, now back in the day, when they did full quantitation
2234 and had the exact amount, I mean, lot of the stuff out there is 70% delta-9. Because a
2235 lot of times, it's, you know, but, you know, for the purposes of the State of Wisconsin
2236 and City of Madison in this case, anything over 0.3%. If it was 0.4%, it would be
2237 illegal. But we've got ten times at least over the illegal amount of delta-9 in the
2238 samples that were taken from his store.

2239

2240 **ATTORNEY DELYEA:** Ten times?

2241

2242 **DETECTIVE KNEUBUHLER:** Well, 0.3 times, or 0.3 times 10, I don't know, I'm not
2243 the math guy, but . . .

2244

2245 **ATTORNEY DELYEA:** These are 5% by weight?

2246

2247 **DETECTIVE KNEUBUHLER:** Greater than 5%.

2248

2249 **ATTORNEY DELYEA:** Right.

2250

2251 **DETECTIVE KNEUBUHLER:** So is, well, that's . . .

2252

2253 **ATTORNEY DELYEA:** It has .05 rather than .03?

2254

2255 **DETECTIVE KNEUBUHLER:** So 0.3 time 10 is 3.0. Okay, that's ten times the
2256 amount would be 3%. It is greater than 5%, so we're actually talking probably, you
2257 know, 12%, 13%, 14%, 15%, and that's just the lowest threshold they have. So I have
2258 no doubt some of this stuff is much higher, especially the mid-tier stuff or the high-tier
2259 stuff or the THC wax, which wax will get you high as a kite, and it, the THC content
2260 oftentimes is astronomical, and it's such a small amount it knocks people out.

2261

2262 **ATTORNEY DELYEA:** Again, we have a math issue here. But we'll move on. So
2263 you don't believe that these are legitimate certificates, but you have no actual proof or
2264 any way to . . .

2265

2266 **DETECTIVE KNEUBUHLER:** [Inaudible].

2267

2268 **ATTORNEY ZILAVY:** Objection.

2269

2270 **DETECTIVE KNEUBUHLER:** I'll answer it.

2271

2272 **ATTORNEY ZILAVY:** He hasn't seen any of the certificates. He knows nothing about
2273 the certificates, so I don't know how he can even render an opinion on the certificates.

2274

2275 [02:18:01]

2276 **ATTORNEY DELYEA:** Yeah. May I show him the certificate? I know we want to
2277 move past that, but it's . . .

2278

2279 **CHAIR BARUSHOK:** Isn't that what we just did? We were talking about these
2280 certificates, right?

2281

2282 **ATTORNEY DELYEA:** [Inaudible].

2283

2284 **ATTORNEY ZILAVY:** If he's really, needs to show one certificate, then have at it.

2285

2286 **CHAIR BARUSHOK:** I think it can be, yeah, as long as we don't have to dwell on this
2287 issue . . .

2288

2289 **ATTORNEY DELYEA:** [Inaudible].

2290

2291 **CHAIR BARUSHOK:** . . . but if it's reasonably probative, that's the only guideline we
2292 have. So go ahead.

2293

2294 **DETECTIVE KNEUBUHLER:** Thank you, sir.

2295

2296 **ATTORNEY DELYEA:** [Inaudible].

2297

2298 **CHAIR BARUSHOK:** You have to speak into the, yeah., you can use that one.

2299

2300 **ATTORNEY DELYEA:** You can see the name on this packaging and that certificate
2301 match.

2302

2303 **DETECTIVE KNEUBUHLER:** No, I can't . . .

2304

2305 **ATTORNEY DELYEA:** [Inaudible].

2306

2307 **DETECTIVE KNEUBUHLER:** Where? Where do you see that on this page right
2308 here?

2309

2310 **ATTORNEY DELYEA:** So assuming that it is real, the certificate analysis for this
2311 particular package is within the legal limit.

2312

2313 **DETECTIVE KNEUBUHLER:** Well, you said assume, and in my job, I don't assume.
2314 I only speak to what I can prove. And we can prove that the THC samples we took
2315 were illegal.

2316

2317 **ATTORNEY DELYEA:** Okay.

2318

2319 **DETECTIVE KNEUBUHLER:** As I said, 0.3%. Now this certificate could be real,
2320 could not be real. It could also be from another sampling of product there that actually

2321 is delta-9 compliant. We don't know. But what we do know is that there's a ton of
2322 stuff seized that was illegal. So it can be both. It can be bunch of illegal weed there,
2323 but also some delta-9.

2324 And I have no evidence of that, but to give you the benefit of the doubt, I'm sure
2325 there may have been compliant stuff there because there are people, you know, this,
2326 it's a free market. There are people who want to buy hemp. So if you're a business
2327 owner, and as someone who clearly has an interest in money, he's going to sell
2328 everything that people want.

2329 So people want illegal weed too. So people want hemp. So the certificate, for
2330 me, is irrelevant. And if you're, if, you know, if I can't recall correctly if I asked him
2331 about certificates or not, it's simply because it's irrelevant to me. It's not, certificates
2332 mean nothing. It's like an anonymous tip. When someone kills someone and says, I
2333 have an anonymous tip that this person murdered another person, that doesn't mean
2334 anything to me. It's something I have to look into, but it doesn't, I have to be able to
2335 prove it. So, and I can't, so.

2336

2337 [02:21:03]

2338 **ATTORNEY DELYEA:** Okay. And you mentioned earlier that someone else was
2339 found with mushrooms on their person.

2340

2341 **DETECTIVE KNEUBUHLER:** Yes.

2342

2343 **ATTORNEY DELYEA:** There were, there was a security system with 16 cameras in
2344 the store . . .

2345

2346 **DETECTIVE KNEUBUHLER:** Sure.

2347

2348 **ATTORNEY DELYEA:** . . . that was seized, correct?

2349

2350 **DETECTIVE KNEUBUHLER:** Yep.

2351

2352 **ATTORNEY DELYEA:** Okay. Given all the illegal activities that you believed were
2353 happening in the store, have you reviewed that?

2354

2355 **DETECTIVE KNEUBUHLER:** I have a request made with our forensic unit to see
2356 what they can extract off of the server. That has not been able to happen at this time,
2357 and it is in progress as we speak. But for the purposes of this hearing and the criminal
2358 case, it's kind of irrelevant.

2359

2360 **ATTORNEY DELYEA:** Okay. So why would that be irrelevant if, as far as the TCH, I
2361 understand that, but why would it be irrelevant as far as the mushrooms?

2362

2363 **DETECTIVE KNEUBUHLER:** I mean, if we want to charge a lot more people with
2364 crimes, I'm more than willing to do that. I have no doubt Mr. McRoberts has co-
2365 conspirators in this case, some of which are sitting in this room. You know, I mean,
2366 you know, a search warrant will be drafted once we can find out if there's viable data,
2367 or with the help of your client, we could get consent to look through that, including his
2368 phone.

2369

2370 **MCROBERTS:** I gave consent.

2371

2372 **DETECTIVE KNEUBUHLER:** So I have no doubt you have also people at
2373 McRoberts' direction, as I've testified earlier, you know, drug dealers eventually want
2374 to get more drug dealers. And if they have half a brain, they're going to insulate
2375 themselves from, they're going to have lackeys, people they use to distribute their
2376 drugs with them. And he may have people on the same level as him. Many of these
2377 people are friends from childhood. And, you know, he can't work 24/7 at this place.
2378 He's got to have other people do his bidding.

2379

2380 **ATTORNEY DELYEA:** Are you aware that there are Safe Harbor provisions in the
2381 hemp laws?

2382

2383 **DETECTIVE KNEUBUHLER:** I have never heard that because I don't care about
2384 hemp. I care about illegal weed.

2385

2386 **ATTORNEY DELYEA:** Okay. The difference between legal hemp and illegal weed is
2387 .03%, below is legal, above is illegal correct?

2388

2389 **DETECTIVE KNEUBUHLER:** For delta-9 content.

2390

2391 **ATTORNEY DELYEA:** Right. In the amount of time, how long was it between the
2392 seizure and when it was tested?

2393

2394 **DETECTIVE KNEUBUHLER:** I don't know the exact days. It would be plus or minus
2395 so many days.

2396

2397 **ATTORNEY DELYEA:** Days or weeks or months?

2398

2399 **DETECTIVE KNEUBUHLER:** Weeks.

2400

2401 **ATTORNEY DELYEA:** Okay. And do you know how . . .

2402

2403 **DETECTIVE KNEUBUHLER:** I sent it to the lab right away, but the NMS Lab test
2404 took place much longer after that. I would say within the last couple of months.

2405

2406 **ATTORNEY DELYEA:** Okay. It appears that, and so you have no idea how, over
2407 time the THC content is, as a percentage of weight, would change?

2408

2409 [02:24:13]

2410 **DETECTIVE KNEUBUHLER:** That's not something I've ever heard of.

2411

2412 **ATTORNEY DELYEA:** Okay. You've never heard that light or heat changes
2413 anything?

2414

2415 **DETECTIVE KNEUBUHLER:** I've, I'm sure it can change the weights and change,
2416 you know, things very slightly just my knowledge of, you know, basic science. But
2417 what you're talking about, no chemist I've ever talked to has even heard about.

2418

2419 **ATTORNEY DELYEA:** So you've never heard of the fact that THCA over time can
2420 change delta-9?

2421

2422 **DETECTIVE KNEUBUHLER:** Have you?

2423

2424 **ATTORNEY DELYEA:** Yes.

2425

2426 **DETECTIVE KNEUBUHLER:** Oh, I have not. That's . . .

2427

2428 **ATTORNEY DELYEA:** And you've never heard that heat will do that either?

2429

2430 **DETECTIVE KNEUBUHLER:** I have no idea what you're talking about.

2431

2432 **ATTORNEY DELYEA:** Okay. When you did the search warrant of Mr. McRoberts'

2433 home, did you find anything illegal?

2434

2435 **DETECTIVE KNEUBUHLER:** Nothing in and of itself illegal, but clear and obvious

2436 proceeds of illegal activity.

2437

2438 **ATTORNEY DELYEA:** Okay. And how is it clear and obvious illegal activity? Don't

2439 you think that the hemp shops make money on their own?

2440

2441 **DETECTIVE KNEUBUHLER:** They do, and they report it.

2442

2443 **ATTORNEY DELYEA:** [Inaudible].

2444

2445 **DETECTIVE KNEUBUHLER:** And then, when you have assets simply in jewelry that
2446 exceed the amount that you actually made in a year, that's a clue.

2447

2448 **ATTORNEY DELYEA:** Did you have all of that jewelry examined?

2449

2450 **DETECTIVE KNEUBUHLER:** The ones we seized, yes, and the total amount was
2451 \$161,000 simply in watches. Rolexes, very nice watches actually, Submariners,
2452 Datejusts. There was an Audemars Piguet. It was a, that he was booked in on that
2453 he had on his wrist, which was MSRP \$60,000. But it was a, it was on his wrist at
2454 \$40,000. Now unless someone can come forward with, you know, we found, and I'm
2455 continuing to find evidence of where this was purchased, who it was purchased by,
2456 where the money came from. It just doesn't add up, so.

2457

2458 **ATTORNEY DELYEA:** You were able to find any of the stores where he purchased
2459 those?

2460

2461 **DETECTIVE KNEUBUHLER:** Again, this is an open and active investigation. I
2462 anticipate many more criminal charges on the way.

2463

2464 **ATTORNEY DELYEA:** So it would be, perhaps be helpful for you to know that some
2465 of those aren't genuine?

2466

2467 **DETECTIVE KNEUBUHLER:** They were appraised by a known appraiser that the
2468 FBI and Drug Enforcement Agency relies on. And that appraiser appraised those

2469 watches, so maybe there's a dupe out there that is fooling all of them, but as far as we
2470 know, these are, these are real.

2471

2472 **ATTORNEY DELYEA:** Okay. So and you talked about this phone being used to
2473 make drug deals and that sort of thing, the phone number, with the various, one was
2474 with a minor selling mushrooms or something.

2475

2476 [02:27:09]

2477 **DETECTIVE KNEUBUHLER:** Yeah, that was, oh, you're referring to a mother of a
2478 14-year-old taking screen shots of her daughter's phone in communication with Jacob
2479 McRoberts, who was sending her a drug menu, and she was also referring to some of
2480 her friends. The menu with the psilocybin mushrooms, the THC, LSD, carts, vapes,
2481 things like that. Yes, and it was called the Fez menu. Yeah, I recall.

2482

2483 **ATTORNEY DELYEA:** Okay. And at some point in time, in all of that that you saw,
2484 did they ever use Mr. McRobert's name?

2485

2486 **DETECTIVE KNEUBUHLER:** Yes. Yes, there are screenshots of it actually. And it
2487 should be in the discovery on the way to you for the criminal trial. In addition to
2488 that . . .

2489

2490 **ATTORNEY DELYEA:** Do you have any . . .

2491

2492 **DETECTIVE KNEUBUHLER:** . . . the number alone, you run it at that time, he gives
2493 that number to, to the kid. So . . .

2494

2495 **ATTORNEY DELYEA:** And so you have some proof that he didn't lend that phone to
2496 somebody?

2497

2498 **DETECTIVE KNEUBUHLER:** Oh, I mean, it's possible a ghost had it or, you know,
2499 one of his buddies had it or something like that. That's all entirely possible. But that
2500 wouldn't be very bright on him to lend a phone or, you know, he didn't report a phone
2501 stolen at the time to Verona PD or any jurisdiction that he was in. So there was no
2502 reports of it. So that might be an judgment call on his end, but again, I can't say for
2503 sure. I only know what I know based on the evidence that's presented in front of me.

2504

2505 **ATTORNEY DELYEA:** Okay. We'll come back to the phone later. He did have a
2506 tobacco license for the store.

2507

2508 **DETECTIVE KNEUBUHLER:** I don't know, and I don't, I, tobacco is not a concern of
2509 mine.

2510

2511 **ATTORNEY DELYEA:** Okay. And just one last question, as a yes or no. Do you
2512 have some proof, any kind of proof at all, that he changed, put things in bags where it
2513 didn't belong, that he put real marijuana in these bags?

2514

2515 **DETECTIVE KNEUBUHLER:** It would all be speculation on my part. What I do know
2516 is that the marijuana that was there was tested and was illegal.

2517

2518 **ATTORNEY DELYEA:** Thank you.

2519

2520 **ATTORNEY ZILAVY:** Just on follow-up question. What was McRoberts' charged
2521 with in relation to the search warrant execution at Fusion?

2522

2523 **DETECTIVE KNEUBUHLER:** Possession with intent, psilocybin, psilocin, possession
2524 with intent marijuana, and maintaining a drug dwelling, which for this purposes of this
2525 ALRC Committee, does not require you to be on the premises. It requires you to own
2526 the premises.

2527 [02:30:00]

2528 It requires you to have control over the premises, which McRoberts himself said
2529 he does, along with his coworker. Luhv-Starr said that he does all the orders. He's
2530 there half of Mr. Luhv-Starr's shift, so this is a clear and obvious case of maintaining a
2531 drug dwelling based on the Dane County District Attorney's office.

2532 Might I add, which isn't inclined often to really pursue drug charges. They're
2533 oftentimes to divert, upon diversion, but in special circumstances, where you have a
2534 clear someone who's got hundreds of thousands of dollar business, most of it
2535 proceeds of drug trafficking, based on my experience, assets and things like that,
2536 they're not going to let this one go. So my experience is when you have someone
2537 possession with intent a few times, this and that, they're often looking to divert the
2538 person right away because, you know, that's just Dane County, so for better or worse.

2539

2540 **ATTORNEY ZILAVY:** I have nothing further.

2541

2542 **CHAIR BARUSHOK:** Oh, no, sorry. Committee Members, any questions? So I think
2543 I just have hopefully an easy one. If we have a, when you say these, some of those
2544 flowers came back and tested at 5%.

2545

2546 **DETECTIVE KNEUBUHLER:** So to clarify, they came as over 5%. So it doesn't
2547 mean they're 5%, it just means that they're over 5%. So that means they could be
2548 exactly 5%, or they could be 99%. It's just they don't even get involved with it
2549 anymore because there's a whole host of logistics that require you to get the exact
2550 when it gets over, you know, 50%, 60%, 70%, 80%. But for the purposes of, you
2551 know, this Farm Bill loophole that supposedly is closing, unless the billion-dollar lobby
2552 wins . . .

2553

2554 **CHAIR BARUSHOK:** Hold on. I think I'm just trying to get at a picture for the
2555 Committee about how, you know, I'm myself having trouble understanding what we're
2556 talking about. And so it doesn't help that you say that it's over. We don't actually
2557 know what it is over 5%. So it kind of, that kind of . . .

2558

2559 **DETECTIVE KNEUBUHLER:** So it's, that's, I, yeah, sorry.

2560

2561 **CHAIR BARUSHOK:** I can't, make my question not work, so I guess I'll just leave it
2562 there.

2563

2564 **DETECTIVE KNEUBUHLER:** Yeah, no. So I would say the best way to understand it
2565 is, is it's the foundation. The bottom limit of these is probably 5.01%, which is over ten
2566 times the legal limit.

2567

2568 **CHAIR BARUSHOK:** Is this like 50 mg if you move the decimals out and stuff?

2569

2570 **DETECTIVE KNEUBUHLER:** Well, 0.3%, so . . .

2571

2572 **CHAIR BARUSHOK:** Or the 5% . . .

2573

2574 **DETECTIVE KNEUBUHLER:** Now you're losing me.

2575

2576 **CHAIR BARUSHOK:** Yeah, let's . . .

2577

2578 **DETECTIVE KNEUBUHLER:** No, it's fine. So, yeah, it's just, so 0.3%, add another

2579 point, it's .4%, .5%, .6%, .7%, .8%, and then you're at 1%. And then that's already in

2580 the illegal zone.

2581

2582 **CHAIR BARUSHOK:** Okay.

2583

2584 **DETECTIVE KNEUBUHLER:** But it's over, then it's all through 1%, 1.1%, all the way

2585 to 1.9%, then to 2%, still all illegal. They're just saying everything here is over 5%.

2586

2587 [02:33:10]

2588 **CHAIR BARUSHOK:** Okay, got it.

2589

2590 **DETECTIVE KNEUBUHLER:** So all well over the established threshold. And, as far
2591 as we know, it doesn't age like a wine that we're talking here. Like I've never heard of
2592 that.

2593

2594 **CHAIR BARUSHOK:** Alder Figueroa Cole or, yeah, I'll let her talk. Alder Figueroa
2595 Cole?

2596

2597 **ALDER FIGUEROA COLE:** Thank you. I have a quick question. When Verona PD
2598 was contacted for, in relation to this individual, had they pressed any charges against
2599 him back in that later time?

2600

2601 **DETECTIVE KNEUBUHLER:** Verona PD passed the case on to the Dane County
2602 Narcotics Task Force. So they did nothing with it. Typically, when drug things come
2603 in, especially somewhat sophisticated incidents where there's an encrypted telegram
2604 account where you have to click on to order drugs and have them be sent to you,
2605 typically, they give that to us who have more experience in dealing with such things,
2606 which are relatively common but not your typical street dealer, a little more level of
2607 sophistication and savviness with technology.

2608 Like I said before, at 2022 and even present day, you know, we can get a tip. I
2609 got a tip the other day that there was 1,000 pounds of marijuana in a certain location.
2610 And I 100% believed it to be true. And that's unrelated to this case, okay.

2611

2612 **ALDER FIGUEROA COLE:** I just . . .

2613

2614 **DETECTIVE KNEUBUHLER:** I didn't do anything with it because I got other more
2615 serious things to deal with.

2616

2617 **ALDER FIGUEROA COLE:** Okay, got it. So there wasn't, in 2022, there was not a,
2618 there was a tip from another agency, but it wasn't investigated, so we didn't press
2619 charges.

2620

2621 **DETECTIVE KNEUBUHLER:** Well, it was investigated. And it, you know, the follow
2622 up that would require criminal charges is slightly complicated because you'd have to
2623 potentially purchase drugs from McRoberts to corroborate it. You would have to,
2624 you'd have to do a lot of things to deal with it. And like I said, at the time, marijuana is
2625 just not a huge priority in many cases for the Dane County Narcotics Task Force. We
2626 deal with it for sure.

2627

2628 **ALDER FIGUEROA COLE:** That's okay. I was just like, I'm trying to establish, I was
2629 trying to establish the date before the license was given and try to confirm that there
2630 were no criminal record history discussed at the, when he first came for . . .

2631

2632 **DETECTIVE KNEUBUHLER:** No, no, he had not been caught with his activities yet.

2633

2634 **ALDER FIGUEROA COLE:** Okay, perfect. That's really what I wanted to try to
2635 confirm. Thank you.

2636

2637 **CHAIR BARUSHOK:** Okay. Any questions from . . .

2638

2639 **ATTORNEY ZILAVY:** No, nothing further.

2640

2641 [02:36:02]

2642 **CHAIR BARUSHOK:** All right. Anything else? All right. Let's move on. Oh, you still

2643 need to . . .

2644

2645 **ATTORNEY ZILAVY:** I would like to move Exhibits 1 through 14 into evidence.

2646

2647 **CHAIR BARUSHOK:** Okay. They are accepted. Oh, I think you're done, right?

2648

2649 **DETECTIVE KNEUBUHLER:** Yeah. Am I excused?

2650

2651 **CHAIR BARUSHOK:** All right. You're excused, yes.

2652

2653 **ATTORNEY ZILAVY:** I'd like you to stay if you don't mind, just in case rebuttal.

2654

2655 **DETECTIVE KNEUBUHLER:** Okay.

2656

2657 **CHAIR BARUSHOK:** Do you have another witness?

2658

2659 **ATTORNEY ZILAVY:** I do not.

2660

2661 **CHAIR BARUSHOK:** Do not. Okay.

2662

2663 **ATTORNEY DELYEA:** Okay. I would call Mr. [inaudible] McRoberts.

2664

2665 **DETECTIVE KNEUBUHLER:** So I think I'm going to move.

2666

2667 **CHAIR BARUSHOK:** Okay. Raise your right hand. Do you swear that, or affirm that
2668 the testimony you give in this matter shall be the truth, the whole truth, and nothing but
2669 the truth?

2670

2671 **MCROBERTS:** Yes.

2672

2673 **CHAIR BARUSHOK:** Okay.

2674

2675 **ATTORNEY DELYEA:** So you are the sole proprietor of Fusion's?

2676

2677 **MCROBERTS:** Yes, I am.

2678

2679 **ATTORNEY DELYEA:** Okay. And you're responsible for obtaining the products that
2680 are sold there?

2681

2682 **MCROBERTS:** Yes.

2683

2684 **ATTORNEY DELYEA:** Okay. And to the best of your knowledge, have all the
2685 products that you've had for sale there been legal?

2686

2687 **MCROBERTS:** Yes.

2688

2689 **ATTORNEY DELYEA:** And where do you purchase your products from?

2690

2691 **MCROBERTS:** Variety of hemp distributors.

2692

2693 **ATTORNEY DELYEA:** Okay. So, and you generally get a certificate of analysis with
2694 them?

2695

2696 **MCROBERTS:** With each hemp product, yes.

2697

2698 **ATTORNEY DELYEA:** Okay. And you've kept all of those?

2699

2700 **MCROBERTS:** Yep.

2701

2702 **ATTORNEY DELYEA:** Okay. And so when you've purchased them, you were led to
2703 believe that they were all legal?

2704

2705 **MCROBERTS:** Correct.

2706

2707 **ATTORNEY DELYEA:** And they had the certificates to prove it, that they'd been
2708 tested and were legal?

2709

2710 **MCROBERTS:** Correct. Each hemp product is delivered with a certificate of analysis,
2711 yeah.

2712

2713 **ATTORNEY DELYEA:** Okay. And you've never put other products or mixed those
2714 products?

2715

2716 **MCROBERTS:** Never.

2717

2718 **ATTORNEY DELYEA:** Okay. So there were mushrooms found at your store. What
2719 do you know about those?

2720

2721 [02:39:03]

2722 **MCROBERTS:** Nothing.

2723

2724 **ATTORNEY DELYEA:** You were unaware that they were there?

2725

2726 **MCROBERTS:** I was unaware that they were there.

2727

2728 **ATTORNEY DELYEA:** You have an idea of who might have had them?

2729

2730 **MCROBERTS:** Possibly.

2731

2732 **ATTORNEY DELYEA:** Okay. Because they were found with mushrooms on their
2733 person?

2734

2735 **MCROBERTS:** Right.

2736

2737 **ATTORNEY DELYEA:** Okay. So do you card people when they come into your
2738 store?

2739

2740 **MCROBERTS:** Every single person.

2741

2742 **ATTORNEY DELYEA:** Okay. Have you ever knowingly sold alcohol to a minor?

2743

2744 **MCROBERTS:** No.

2745

2746 **ATTORNEY DELYEA:** You owned a phone that you lent to someone.

2747

2748 **MCROBERTS:** Correct.

2749

2750 **ATTORNEY DELYEA:** Do you remember about when you lent it to them?

2751

2752 **MCROBERTS:** That would have been some time end of 2021.

2753

2754 **ATTORNEY DELYEA:** Okay. You eventually got the phone back.

2755

2756 **MCROBERTS:** Correct.

2757

2758 **ATTORNEY DELYEA:** Okay. Did you ever notice any of the people that worked for
2759 you doing anything illegal, selling things that you hadn't purchased?

2760

2761 **MCROBERTS:** No.

2762

2763 **ATTORNEY DELYEA:** You have scales and bags and all sorts of things like that for
2764 weighing legal hemp and changing it from those huge bags into the smaller quantities
2765 you sell?

2766

2767 **MCROBERTS:** Correct. So when a hemp product is like, for example, the one that's
2768 by your feet there, the pound of hemp, those are delivered to my store with, in an
2769 unlabeled bag sometimes, and sometimes they're labeled. And all that they need to
2770 have is a certificate of analysis, which is all those papers that are next to you. And we
2771 then will break down that pound of hemp that you have there and put it in our logoed
2772 bags for the store.

2773

2774 **ATTORNEY DELYEA:** Okay. That's what all those labels were that we saw in the
2775 picture earlier on that roll of . . .

2776

2777 **MCROBERTS:** I'd have to see the photo.

2778

2779 **ATTORNEY DELYEA:** So this looks a lot like the hemp that you sell at the store.

2780

2781 **MCROBERTS:** Correct, that is the hemp that we sell at the store.

2782

2783 **ATTORNEY DELYEA:** And you're assuming it's legal because you have a certificate
2784 that it was tested and is legal.

2785

2786 **MCROBERTS:** Yes. But I just want to add that hemp, over time, light, heat, storage,
2787 humidity, a variety of factors will cause the delta-9 THC percentages to rise. And I
2788 mean, this happens right after it's tested. So it might test as .2% delta-9, and then a
2789 week later, when it's delivered to the storefront, it could be higher than that. Let alone,
2790 maybe five months go by after it's been seized from my store, and then it's sent to a
2791 crime lab, and it tests as 5% or whatever it was.

2792

2793 [02:42:03]

2794 **ATTORNEY DELYEA:** So just to be clear, you as a business owner, don't have the
2795 ability to test these things.

2796

2797 **MCROBERTS:** Correct. I rely on the certificates that are delivered to me from the
2798 various hemp distributors. We probably deal with over a dozen. Some are in
2799 California. Some are in Michigan. We get them through the mail. Some are right
2800 here locally in Madison and deliver the product in person.

2801

2802 **ATTORNEY DELYEA:** Okay. If there was a bag that was labeled at 23% THC, that
2803 would be the total THC, right?

2804

2805 **MCROBERTS:** Correct. That's not indicative if it's legal or not. That's just the total.
2806 As long as the D-9, delta-9 THC percentage is under .3%, it is legal.

2807

2808 **ATTORNEY DELYEA:** Okay. You don't have access to the state crime lab to have
2809 things tested?

2810

2811 **MCROBERTS:** No, I just have the COAs, certificate of analysis.

2812

2813 **ATTORNEY DELYEA:** And no special, no other lab. You just have to go by what
2814 these businesses tell you is true.

2815

2816 **MCROBERTS:** Right.

2817

2818 **ATTORNEY DELYEA:** And you've never falsified any of these records, never made
2819 any of these?

2820

2821 **MCROBERTS:** Never.

2822

2823 **ATTORNEY DELYEA:** Okay. Why were there bags of, with different amounts of
2824 cash, in the store?

2825

2826 **MCROBERTS:** So I'd have to see the photos again, but generally, if we get,
2827 fraternities, we sell alcohol to maybe ten different fraternities, and they come, they all
2828 arrive every Thursday, Friday, Saturday for their liquor for whatever event they're
2829 hosting that day. And they generally prefer to pay cash because there is a 3%
2830 processing fee for cards. So if you can imagine what a, \$4,000 could be, you know, a
2831 fraternity order, and if you have to pay 3%, that comes out to over like \$100 as a
2832 processing fee. So they'd rather pay cash.

2833 And I've instructed employees to initial the fraternity. There's some bags next
2834 to you that might be helpful to show. But a brown paper bag will be labeled, say, KS
2835 stand for Kappa Sigma, and they'll say 4K under it, and there might be \$4,000 in that

2836 bag that I will then place in the vault, which they didn't find. It's not hidden either. It
2837 was just in the inventory room.

2838 And the reason I instruct employees to place those bags on the side counter is
2839 because \$4,000 wouldn't fit in the till. It's like this deep. And when you have several
2840 fraternities coming with thousands of dollars of cash, it's unrealistic to put that in the
2841 till.

2842

2843 [02:45:14]

2844 **ATTORNEY DELYEA:** Okay. At some point in time, you were told about the
2845 mushrooms being found?

2846

2847 **MCROBERTS:** Correct. The day of October 8th, the DAB agent, believe it was
2848 McManus.

2849

2850 **ATTORNEY DELYEA:** Okay. And were you there when the agent found it?

2851

2852 **MCROBERTS:** Say again?

2853

2854 **ATTORNEY DELYEA:** Were you in the room when the agent found them?

2855

2856 **MCROBERTS:** I think I was behind the register sitting in a chair while they were
2857 doing their search.

2858

2859 **ATTORNEY DELYEA:** Okay.

2860

2861 **MCROBERTS:** I led her to the room where they were located, and then I went back
2862 to the register.

2863

2864 **ATTORNEY DELYEA:** Okay. And there's, the premises is mostly on the ground
2865 floor, but there are also storage areas below.

2866

2867 **MCROBERTS:** Say that again, I'm sorry.

2868

2869 **ATTORNEY DELYEA:** The store itself is mostly on the ground floor, but there's some
2870 storage and other space that comes with it.

2871

2872 **MCROBERTS:** Correct. We also have an inventory room down the stairs.

2873

2874 **ATTORNEY DELYEA:** And where was your DVR located?

2875

2876 **MCROBERTS:** At that time, the DVR was behind the register on the main floor.

2877

2878 **ATTORNEY DELYEA:** Okay.

2879

2880 **MCROBERTS:** October 8th, is that what you're asking about? Yeah.

2881

2882 **ATTORNEY DELYEA:** How did you become aware that there was somebody, that
2883 the, there were agents that wanted to inspect the store?

2884

2885 **MCROBERTS:** I received a text. And I was already on my way back to the store from
2886 the vet. And I would have arrived at the same time had I gotten that text or not.

2887

2888 **ATTORNEY DELYEA:** Okay. Was there just you that was, had a license, or were
2889 there other people that worked there that had . . .

2890

2891 **MCROBERTS:** There's other people that work there that have a license. But,
2892 Jerome, that was there that day did not have an operator's license.

2893

2894 **ATTORNEY DELYEA:** Okay. But you had, you left him knowing that because you
2895 had an emergency with your pet?

2896

2897 **MCROBERTS:** Correct. And that is, my apologies, I do own up to that.

2898

2899 **ATTORNEY DELYEA:** Okay. So you, can you explain why these products tested the
2900 way that they did when they were sent to the lab?

2901

2902 **MCROBERTS:** Yeah. Going back to what I said earlier, units of legal hemp, after
2903 they're tested, the percentages continue to naturally rise. I'm really surprised the
2904 detective didn't know that.

2905

2906 [02:48:09]

2907 **ATTORNEY ZILAVY:** Objection. I don't know that he's qualified to answer that
2908 question. He's not a chemist. He's, actually, we know nothing about him, other than
2909 that he owns the liquor store.

2910

2911 **MCROBERTS:** A quick Google search will tell you that.

2912

2913 **CHAIR BARUSHOK:** Hold on.

2914

2915 **ATTORNEY DELYEA:** I'll withdraw that question anyway. The truth is, is you relied

2916 on the certificates that came with the products, yes or no?

2917

2918 **MCROBERTS:** Yes.

2919

2920 **ATTORNEY DELYEA:** And you never knowingly broke any of those rules or

2921 regulations.

2922

2923 **MCROBERTS:** Correct.

2924

2925 **ATTORNEY DELYEA:** I have no further questions.

2926

2927 **CHAIR BARUSHOK:** Okay.

2928

2929 **ATTORNEY ZILAVY:** You just testified that you have no idea where the mushrooms

2930 came from, but you suspect one of your employees of them.

2931

2932 **MCROBERTS:** He was found with a mushroom stem on him. Does that mean that all

2933 of the mushrooms were his? No. But you see how it looks.

2934

2935 **ATTORNEY ZILAVY:** I don't. But are you talking about Jerome Luhv-Starr?

2936

2937 **MCROBERTS:** Yes.

2938

2939 **ATTORNEY ZILAVY:** So you are alleging that he's the one that brought the
2940 mushrooms onto the premises?

2941

2942 **MCROBERTS:** I don't know that.

2943

2944 **ATTORNEY ZILAVY:** Did you hire Jerome Luhv-Starr?

2945

2946 **MCROBERTS:** Yeah. He reached out to me . . .

2947

2948 **ATTORNEY ZILAVY:** I don't need, I just want to know if you hired him, that's all.

2949

2950 **MCROBERTS:** Yes.

2951

2952 **ATTORNEY ZILAVY:** And you testified that you lent your phone to someone at the
2953 end of 2021. Who did you lend your phone to?

2954

2955 **MCROBERTS:** Jerome Starr, Luhv-Starr.

2956

2957 **ATTORNEY ZILAVY:** And why did you lend it to him?

2958

2959 **MCROBERTS:** He was in a tough spot in life, didn't have a car, phone, place to live,
2960 and I was trying to help him out.

2961

2962 **ATTORNEY ZILAVY:** Hmm. And so the drug menu that's been referenced from the
2963 Verona Police Department that's labeled as Fez, that's not your drug menu.

2964

2965 **MCROBERTS:** Absolutely not. I knew nothing about it until the discovery.

2966

2967 **ATTORNEY ZILAVY:** So are you saying it was Jerome Luhv-Starr . . .

2968

2969 **MCROBERTS:** No.

2970

2971 **ATTORNEY ZILAVY:** . . . who was trafficking drugs to the Verona High School
2972 students?

2973

2974 **MCROBERTS:** I don't know.

2975

2976 **ATTORNEY ZILAVY:** Didn't you just say you lent your phone to him?

2977

2978 **MCROBERTS:** I lent my phone to him.

2979

2980 **ATTORNEY ZILAVY:** So seems to me you're saying that Jerome Luhv-Starr is the
2981 one who was trafficking drugs to the Verona High School students.

2982

2983 **MCROBERTS:** I don't know what he was doing. I was living in Milwaukee for the
2984 entire year of 2022. I have a lease to prove that. So don't know what he was doing.
2985 It's unfortunate.

2986

2987 **CHAIR BARUSHOK:** Let's stop. You had an objection?

2988

2989 **ATTORNEY DELYEA:** It's too late now.

2990

2991 **CHAIR BARUSHOK:** Sorry.

2992

2993 [02:51:08]

2994 **ATTORNEY ZILAVY:** And did you say that, did you testify that on one of the dates in
2995 question where there was no licensed operator on site, that there was somebody
2996 licensed there?

2997

2998 **MCROBERTS:** On January 15th, yes.

2999

3000 **ATTORNEY ZILAVY:** Who what there that, who was licensed?

3001

3002 **MCROBERTS:** Me.

3003

3004 **ATTORNEY ZILAVY:** Okay. And the certificate of analysis that you keep referring to,
3005 do you know how to tell if the certificate of analysis is fake? What, don't look at him to
3006 answer the question. I'm asking you.

3007

3008 **MCROBERTS:** I wasn't looking at him. I was looking around the room.

3009

3010 **ATTORNEY ZILAVY:** No, you're looking at him. I'm not stupid. I can see exactly

3011 what you're doing.

3012

3013 **MCROBERTS:** What was the question?

3014

3015 **ATTORNEY ZILAVY:** Do you know how to determine if a certificate of analysis is

3016 fake?

3017

3018 **MCROBERTS:** No.

3019

3020 **ATTORNEY ZILAVY:** Have you done any research into how to determine if a

3021 certificate of analysis is fake?

3022

3023 **MCROBERTS:** No.

3024

3025 **ATTORNEY ZILAVY:** And if you are, where do you get your information about the,

3026 what did you call it, the, whatever that causes, allegedly causes, the decarbonization

3027 of the hemp so that it increases, where do you get that information?

3028

3029 **MCROBERTS:** Through my local hemp distributors that I talk with on a weekly basis.

3030 A quick Google search will also tell you the same thing.

3031

3032 **ATTORNEY ZILAVY:** And a quick Google search also tells you that it would take
3033 years and years for that increase to reach an illegal level. Are you aware of that?

3034

3035 **MCROBERTS:** That's not true.

3036

3037 **ATTORNEY ZILAVY:** It is with a Google search.

3038

3039 **MCROBERTS:** The lights alone, the heat, it depends on so many different factors.

3040

3041 **ATTORNEY ZILAVY:** Well, a quick Google search will also reveal that. So I'll just
3042 leave it at that. Nothing further.

3043

3044 **ATTORNEY DELYEA:** Do you have any reason to doubt that these certificates you
3045 were given weren't legitimate?

3046

3047 **MCROBERTS:** No, I believe all the hemp distributors in the area and across the
3048 country to be valid, trustworthy businesses.

3049

3050 [02:54:04]

3051 **ATTORNEY DELYEA:** Okay. That's all.

3052

3053 **CHAIR BARUSHOK:** Okay. Committee Members, any questions? All right. Seeing
3054 none, let's, you can step down. Your next witness?

3055

3056 **ATTORNEY DELYEA:** One moment, please.

3057

3058 **CHAIR BARUSHOK:** Go ahead.

3059

3060 **ATTORNEY DELYEA:** Jerome Luhv-Starr, please.

3061

3062 **CHAIR BARUSHOK:** Please raise your right hand. Do you swear or affirm that the
3063 testimony you give in this matter is the truth, the whole truth, and nothing but the
3064 truth?

3065

3066 **LUHV-STARR:** Yes.

3067

3068 **ATTORNEY DELYEA:** Can you spell, can you state your name and spell it for the
3069 record, please.

3070

3071 **LUHV-STARR:** My name is Jerome Luhv-Starr, J-e-r-o-m-e L-u-h-v hyphen S-t-a-r-r.

3072

3073 **ATTORNEY DELYEA:** Okay. Do you work at Fusion's?

3074

3075 **LUHV-STARR:** Yes.

3076

3077 **ATTORNEY DELYEA:** And you know Mr. McRoberts?

3078

3079 **LUHV-STARR:** I do, yes.

3080

3081 **ATTORNEY DELYEA:** Known him for a long time?

3082

3083 **LUHV-STARR:** Since fifth grade.

3084

3085 **ATTORNEY DELYEA:** Were you good friends most of this time?

3086

3087 **LUHV-STARR:** We're friends.

3088

3089 **ATTORNEY DELYEA:** Okay. At some point in time, did he lend you a phone?

3090

3091 **LUHV-STARR:** Yes.

3092

3093 **ATTORNEY DELYEA:** Do you remember approximately when?

3094

3095 **LUHV-STARR:** It was towards the end of 2021.

3096

3097 **ATTORNEY DELYEA:** Okay. And eventually you gave it back to him when things
3098 were better?

3099

3100 **LUHV-STARR:** Yes.

3101

3102 **ATTORNEY DELYEA:** Okay. So when the police came to Fusion's, did they search
3103 you?

3104

3105 **LUHV-STARR:** I don't believe so.

3106

3107 **ATTORNEY DELYEA:** At some point in time, did they say that they found
3108 mushrooms in your possession?
3109
3110 **LUHV-STARR:** No.
3111
3112 **ATTORNEY DELYEA:** Okay. Do you know anything about the mushrooms that were
3113 stored at the store?
3114
3115 **LUHV-STARR:** I do not.
3116
3117 **ATTORNEY DELYEA:** Okay. Have you ever seen anyone working at that store put
3118 different, put any product that didn't come with a certificate in the, for sale?
3119
3120 **LUHV-STARR:** No, not to my knowledge.
3121
3122 [02:57:00]
3123 **ATTORNEY DELYEA:** Okay. Have you ever seen anyone underage served alcohol
3124 there?
3125
3126 **LUHV-STARR:** No.
3127
3128 **ATTORNEY DELYEA:** You card everyone?
3129
3130 **LUHV-STARR:** Yes.
3131

3132 **ATTORNEY DELYEA:** Okay. How long was Mr. McRoberts gone to take care of his
3133 dog, do you recall?

3134

3135 **LUHV-STARR:** Mm, maybe 20 minutes, 25 minutes.

3136

3137 **ATTORNEY DELYEA:** Okay. Was it him that you called to let him know that they
3138 were going to close the store, or did you call somebody else?

3139

3140 **LUHV-STARR:** No, it was the next employee on shift.

3141

3142 **ATTORNEY DELYEA:** Okay. And that was on the January 15th incident, right?

3143

3144 **LUHV-STARR:** Yes.

3145

3146 **ATTORNEY DELYEA:** Okay. So you start, when he started the business, you
3147 became an employee. Do you have like a regular payroll?

3148

3149 **LUHV-STARR:** Not really, no.

3150

3151 **ATTORNEY DELYEA:** So it's kind of like we're all friends, and we're just going to try
3152 and make this work?

3153

3154 **LUHV-STARR:** Right, I mean, small business, trying to help him out, figure it out as
3155 we go.

3156

3157 **ATTORNEY DELYEA:** Okay. And have you ever seen him sell any drug that you
3158 knew to be illegal?

3159

3160 **LUHV-STARR:** No.

3161

3162 **ATTORNEY DELYEA:** Are you able to explain why the prosecution believes there
3163 were drug sales taking place using the phone that had been lent to you?

3164

3165 **LUHV-STARR:** I'm not prepared to answer that question.

3166

3167 **ATTORNEY DELYEA:** I have no further questions.

3168

3169 **CHAIR BARUSHOK:** [Inaudible].

3170

3171 **ATTORNEY ZILAVY:** You just testified that you were at the store on January 15th,
3172 and McRoberts had gone to take care of his dog, correct?

3173

3174 **LUHV-STARR:** Correct.

3175

3176 **ATTORNEY DELYEA:** [Inaudible].

3177

3178 **LUHV-STARR:** January 15th.

3179

3180 **ATTORNEY ZILAVY:** I'm asking the witness a question. He testified though it was
3181 January 15th. You just testified that on January 15th, McRoberts had gone to take care

3182 of his dog and was gone from the store for approximately 20 minutes. Is that true or
3183 not?

3184

3185 **LUHV-STARR:** No, that is not true. I'm getting dates mixed up just because there
3186 was not clarity there. Thank you for picking up on that.

3187

3188 **ATTORNEY ZILAVY:** So both times you were the one at the store when police came,
3189 and you were the only one on site. And you do not have an operator's license,
3190 correct?

3191

3192 [03:00:02]

3193 **LUHV-STARR:** Yes.

3194

3195 **ATTORNEY ZILAVY:** And you had McRoberts' phone at the end of 2021, correct?

3196

3197 **LUHV-STARR:** Yes.

3198

3199 **ATTORNEY ZILAVY:** How long did you have the phone?

3200

3201 **LUHV-STARR:** Roughly like a year.

3202

3203 **ATTORNEY ZILAVY:** So you gave it back to him in 2022?

3204

3205 **LUHV-STARR:** I would say after the fact.

3206

3207 **ATTORNEY ZILAVY:** What was that phone number?

3208

3209 **LUHV-STARR:** Not prepared to answer that question right now.

3210

3211 **ATTORNEY ZILAVY:** You had the phone for a year, and you don't know the phone

3212 number.

3213

3214 **LUHV-STARR:** [Inaudible].

3215

3216 **ATTORNEY ZILAVY:** And do you recall talking with Detective Kneubuhler and

3217 Detective Nelson on October 8th, 2025?

3218

3219 **LUHV-STARR:** Yes.

3220

3221 **ATTORNEY ZILAVY:** Do you recall telling Detective Kneubuhler that you had

3222 mushrooms in your backpack?

3223

3224 **LUHV-STARR:** Yes.

3225

3226 **ATTORNEY ZILAVY:** Did you not just testify that you did not have any mushrooms?

3227

3228 **LUHV-STARR:** No, I was asked if I had been asked about having mushrooms on

3229 myself. I [inaudible] told . . .

3230

3231 **ATTORNEY ZILAVY:** And you were asked. You just now testified that you told
3232 Detective . . .
3233
3234 **LUHV-STARR:** I had willingly told them that I had mushrooms on my person, on my
3235 backpack, that belonged to me.
3236
3237 **ATTORNEY ZILAVY:** You said there was no discussion about that. And you, in fact,
3238 did talk with Detective Kneubuhler about the mushrooms that were in your backpack,
3239 correct?
3240
3241 **LUHV-STARR:** Correct.
3242
3243 **ATTORNEY ZILAVY:** But you, like Mr. McRoberts, have no idea how the mass
3244 quantity of psilocybin mushrooms arrived at Fusion, correct?
3245
3246 **LUHV-STARR:** No idea.
3247
3248 **ATTORNEY ZILAVY:** Hmm, nothing further.
3249
3250 **CHAIR BARUSHOK:** Anything? [Inaudible].
3251
3252 **ATTORNEY DELYEA:** One moment. Did you ever see mushrooms at the store?
3253
3254 **LUHV-STARR:** No.
3255

3256 **ATTORNEY DELYEA:** All right. Had you seen mushrooms at the store, would you
3257 immediately recognize them as a violation of the law?

3258

3259 **LUHV-STARR:** It's quick to make an assumption there.

3260

3261 **ATTORNEY DELYEA:** Okay. Are you, there are mushrooms that they sell that are
3262 legal.

3263

3264 **LUHV-STARR:** Correct.

3265

3266 **ATTORNEY DELYEA:** So had you seen them there, you would have assumed what,
3267 or thought?

3268

3269 **LUHV-STARR:** I can't imagine like why would I jump to the immediate worst, you
3270 know?

3271

3272 **ATTORNEY DELYEA:** Okay. I have no other questions.

3273

3274 [03:03:02]

3275 **ATTORNEY ZILAVY:** What mushrooms are legal to consume?

3276

3277 **LUHV-STARR:** Amanita muscaria, shiitake, there's probably thousands if we're going
3278 to get into it. The whole study of mycology, as your detective talked about earlier.

3279

3280 **ATTORNEY ZILAVY:** Is that, are those the mushrooms that you had on your person
3281 when Detective Kneubuhler was questioning you?

3282

3283 **LUHV-STARR:** No.

3284

3285 **ATTORNEY ZILAVY:** You had illegal mushrooms on your person when Detective
3286 Kneubuhler was . . .

3287

3288 **LUHV-STARR:** Don't feel comfortable answering this question.

3289

3290 **ATTORNEY ZILAVY:** This is not a criminal court, so.

3291

3292 **LUHV-STARR:** Still don't feel comfortable answering the question.

3293

3294 **ATTORNEY ZILAVY:** So the assumption is they were illegal mushrooms. And with
3295 the quantity of mushrooms that were scattered throughout Fusion, you never saw
3296 those bags.

3297

3298 **LUHV-STARR:** I'm not going to make any more comments if this is the level of
3299 questions we're going to be getting to.

3300

3301 **ATTORNEY ZILAVY:** Nothing further.

3302

3303 **CHAIR BARUSHOK:** Okay. Any questions from Committee? Alder Figueroa Cole.

3304

3305 **ALDER FIGUEROA COLE:** Thank you. Are you still employed at Fusion?

3306

3307 **LUHV-STARR:** Yes.

3308

3309 **ALDER FIGUEROA COLE:** And what are your duties at, what are your

3310 responsibilities at this establishment?

3311

3312 **LUHV-STARR:** Stocking shelves, greeting patrons, checking out, ID-ing, just I would

3313 say typical like retail liquor store space duties.

3314

3315 **ALDER FIGUEROA COLE:** Are you aware of the regulations where if you're not

3316 licensed to be alone in the establishment, the establishment shouldn't be open?

3317

3318 **LUHV-STARR:** Right.

3319

3320 **ALDER FIGUEROA COLE:** So when the owner had to do this emergency exit for his

3321 dog, was there any discussions about closing the location while he came back?

3322

3323 **LUHV-STARR:** It was not discussed due to the just quickness of the emergency.

3324

3325 **ALDER FIGUEROA COLE:** But are you aware that you shouldn't, that it should have

3326 been closed?

3327

3328 **LUHV-STARR:** I am now.

3329

3330 **ALDER FIGUEROA COLE:** Okay, perfect. Thank you.

3331

3332 **CHAIR BARUSHOK:** Other questions from Committee Members? Okay. Seeing

3333 none, you can step down. Do you have any other witnesses?

3334

3335 **ATTORNEY DELYEA:** One moment.

3336

3337 **CHAIR BARUSHOK:** Okay.

3338

3339 [03:06:04]

3340 **ATTORNEY DELYEA:** [Inaudible] who would, one of the distributors who would be

3341 available? I'm sure the City will object, but I think that it would be able to provide

3342 information that would be useful to the Committee.

3343

3344 **CHAIR BARUSHOK:** And the, they're here now?

3345

3346 **ATTORNEY DELYEA:** We would have to either via Zoom or telephone.

3347

3348 **ATTORNEY ZILAVY:** And I do, in fact, object because, as the Committee knows, we

3349 have had a couple of deadlines for making motions for things for the hearings. Two

3350 months ago when this was scheduled, I made a motion to seek permission to have

3351 testimony via Zoom. So I would definitely object to him calling a witness at this point,

3352 via however it would happen, if it's not in person.

3353

3354 **ATTORNEY DELYEA:** Okay.

3355

3356 **CHAIR BARUSHOK:** Okay. Alder Figueroa Cole?

3357

3358 **ALDER FIGUEROA COLE:** I concur with that statement.

3359

3360 **CHAIR BARUSHOK:** Do you want to, should we take a vote on it, or is there
3361 unanimous consent? Because I think, I agree, we had two motion hearings properly
3362 noticed. We got the motion for witnesses by Zoom from the City. So this is the first
3363 time we're hearing of this. Yeah, I don't think we need a vote. And so we won't do
3364 that.

3365

3366 **ATTORNEY DELYEA:** We're finished with the testimony.

3367

3368 **CHAIR BARUSHOK:** Okay. Thank you. Would you like to presenting more
3369 evidence?

3370

3371 **ATTORNEY ZILAVY:** The City has nothing further.

3372

3373 **CHAIR BARUSHOK:** So then that brings us to the stage where we close the
3374 evidence, and all the exhibits have been admitted and made a record, and made part
3375 of the record in the case. Time for closing arguments. City, do we want to, do you
3376 want to take a break? I'm willing to keep going.

3377

3378 [03:09:16]

3379 **ATTORNEY ZILAVY:** I'm, I was going to ask if we could have ten minutes to just
3380 gather our thoughts for closing.

3381

3382 **CHAIR BARUSHOK:** Okay. I'm okay, yeah, I'm okay with that too. So is everyone
3383 else okay? Then we'll take ten minutes.

3384

3385 **ALDER FIGUEROA COLE:** Do you need a motion for that? No, good.

3386

3387 **CHAIR BARUSHOK:** Nope. Is everyone ready to get started? Okay, Attorney
3388 Zilavy.

3389

3390 **ATTORNEY ZILAVY:** In order for me to ask for revocation of this liquor license, I
3391 have to prove the allegations in the complaint by a preponderance of the evidence.
3392 And I believe the Committee has been made aware of what that standard is, which
3393 basically, tipping the scale, 51% more likely that the allegations are true. And I think
3394 there is an abundance of evidence before the Committee that all three of the
3395 allegations in the complaint have been proven through the evidence that the
3396 Committee heard today.

3397 As I recite some of that, I will start with what a drug nuisance is. That's one of
3398 the allegations in the complaint, that Fusion maintained a drug nuisance at the
3399 establishment. And Section 823.113 of the Wisconsin Statute says, any building or
3400 structure that is used to facilitate the delivery, distribution, or manufacture of a
3401 controlled substance, as defined in 961.014, and then there's language about
3402 controlled substance analogs, and any building or structure where those acts take
3403 place, is a public nuisance and may be proceeded against under this section.

3404 And it's that statute that was the basis for the public nuisance letter that got
3405 issued as a result of the execution of the search warrant at this establishment. Given
3406 that I have proven the allegations in the complaint by a preponderance of the
3407 evidence, I would request that the Committee immediately revoke Fusion Smoke &
3408 Spirits' liquor license. The operator, McRoberts, claims he believed the THC products
3409 were legal. Even if the Committee believes that, it does not explain the psilocybin
3410 mushrooms. The mushrooms are a Class 1 controlled substance in the state of
3411 Wisconsin.

3412 [03:12:03]

3413 You heard Detective Kneubuhler testify that he has rarely seen a quantity of
3414 psilocybin that large and that the amount on the premises was indicative of trafficking.
3415 There's no grey area where the psilocybin is concerned. There's no labeling
3416 confusion. There's no good-faith mistake that accounts for selling a Schedule 1
3417 hallucinogen out of his liquor store.

3418 You heard testimony that McRoberts owns the store, is in charge of the store,
3419 and does all the ordering for the store. He claims he did not even know about the
3420 mushrooms being in the store and that he did not bring them onto the premises. But
3421 that doesn't really matter. He's the license holder. He has a duty to know what is
3422 going on in the store. And his claim that he did not bring it there is not believable, and
3423 the evidence presented does not allow for an inference that he was unaware of it
3424 being on the premises.

3425 In fact, I think, nothing annoys me more than somebody who lies, and it
3426 certainly appears to me that he lied in his testimony and that Jerome Luhv-Starr lied in
3427 his testimony in order to make it convenient for themselves so that neither one of them

3428 would take the fall for the psilocybins. But ultimately, McRoberts has to take that fall
3429 because he owns the store, and he has the liquor license.

3430 For argument's sake, let's say he genuinely believed the THC products were
3431 compliant with applicable law. That assumption still does not save his license. Good
3432 faith requires actual diligence. McRoberts got the certificates, he claims. We don't
3433 know exactly what they say because they didn't make copies and provide copies to
3434 the City for that.

3435 McRoberts testified that he does not know how to determine whether a
3436 certificate of, what is it, certificate, the certificate of analysis, he doesn't know how to
3437 determine if one is fake. And that is something that somebody who is operating a
3438 business dealing in hemp products should definitely know how to make sure that the
3439 product they have is, in fact, a safe bill or a safe product. And he also has an
3440 increased duty to make sure the products he's selling are legal since he's engaged in
3441 a highly regulated licensed business.

3442 Back to the psilocybin again, they are Scheduled 1 controlled substance under
3443 federal and state law. There's no complex regulatory landscape for psilocybin
3444 mushrooms. They are not permitted to be possessed, consumed, or sold in the state
3445 of Wisconsin. There are no compliant vendors, no legal supply chains, no certificates
3446 of analysis that make them permissible. Roberts(?) can't point to any source of
3447 confusion that would lead a reasonable person to believe that selling psychedelic
3448 mushrooms out of a liquor store is legal.

3449 [03:15:22]

3450 I submit that the THC argument is not believable. The mushroom argument
3451 simply does not exist. And you heard the testimony from Detective Kneubuhler
3452 regarding the content of all the THC they sent to the lab out East and that it far

3453 exceeded the legal limit of THC. So everything that was submitted to that lab was an
3454 illegal product that was being sold out of Fusion.

3455 Mr. McRoberts would like you to believe that when he got the product, it was
3456 legal. But then, over a period of time, it became illegal due to the, I keep forgetting
3457 what they called it, due to the decarbonization. They did not provide any scientific
3458 evidence to support that. They did not provide any kind of evidence as to how that
3459 happens over a period of time, what the levels are over a period of time. And I think
3460 it's just a last-ditch effort to legitimize his illegal business.

3461 His liquor license is a privilege, not a right. He abused his privilege and made a
3462 conscious decision to illegally traffic controlled substances from Fusion. You heard
3463 Detective Kneubuhler testify about the Verona case, which, oh, magically, his phone
3464 was given to Jerome. And, magically, Jerome doesn't know the number and had
3465 nothing to do with the sales to Verona High School students. I think both of them are
3466 absolutely not believable with those assertions.

3467 McRoberts' dog is named Fez. The drug menu for the Verona incident was
3468 titled Fez's Menu. His license plate said Fez. Sometimes circumstantial evidence is
3469 way more powerful than direct evidence, and I think that circumstantial evidence is
3470 pretty powerful. I mean, really, he and his employee sat here and lied to your faces, at
3471 least in terms of the mushrooms, I would say, the phone.

3472 And McRoberts has failed to abide by the simplest of regulations, which is
3473 having a licensed operator on site at all times the business is open to the public. He
3474 even told Agent Zautner, he told Detective Kneubuhler that he was aware of the
3475 requirement that there had to be a licensed operator on site. Jerome Luhv-Starr was
3476 not willing to answer some questions, and I think you can infer from his not willing to
3477 answer that it's because the answer would not be in favor of McRoberts or himself.

3478 But Jerome Luhv-Starr also said he knew that the store couldn't be opened if there
3479 was not a licensed operator on site.

3480 [03:18:44]

3481 Revocation is the only appropriate action in this case. A suspension would
3482 allow McRoberts to return. There is no condition that the Committee can impose that
3483 adequately protects the public or restores confidence in this license. And a liquor
3484 license comes with responsibility. And when somebody is trafficking illegal controlled
3485 substances, using their liquor store to traffic illegal controlled substances, I think really
3486 the only choice the Committee has is to revoke that license immediately. Thank you.

3487

3488 **ATTORNEY DELYEA:** First, I want to apologize. I was sick for a while. I should
3489 have had some of this submitted quite a while ago. But aside from that, there is
3490 literally zero proof that he had knowingly possessed any hemp product that he did not
3491 buy from a distributor. He has, he bought, he has certificates of testing. He had no
3492 reason to believe that anything there was illegal. And in fact, the state law mirrors the
3493 hemp laws, and they have a safe harbor for when it goes over by some amounts.

3494 Everything he had came in the packages that he, that it started with. And there
3495 were scales and all these other things that were talked about, right. But that's part of
3496 that business. There was nothing nefarious about any of that. And in fact, they were
3497 registered with the City, along with having a tobacco license. And there is a zero proof
3498 that he knew about the mushrooms. You heard the officer say, well, there was
3499 mushrooms stuff scattered all over. But what you didn't see was him showing any of
3500 those pictures where there was mushrooms stuff scattered all over because, quite
3501 honestly, it wasn't there.

3502 So if he followed the law, as far as he knew, did everything that he was
3503 supposed to do the right way, and it turns out that when it's tested, it's over either
3504 because it stayed in storage too long, was exposed to light, 'm not really sure.
3505 Because he had certificates that said that it was legal when he bought it and when it
3506 was arrived in his store.

3507 [03:21:10]

3508 Mushrooms were never sold out of this store. There's nobody that said
3509 anything like that in any of the testimony. And there's nothing to show that he had it
3510 there. The City and the State have his video system, 16 cameras that showed
3511 everything that happened in that store. You didn't see anything from any of those
3512 showing that. The City had plenty of time to get that evidence. I can't get it until after
3513 the, apparently, the trial starts. I've been trying to get it for months.

3514 The phone, right, the phone is an unfortunate thing. But there was no mention,
3515 nothing to describe him in particular in any of those phone calls regarding drugs. And
3516 he lent the phone to a friend who was on hard times. And unfortunately that friend is
3517 probably going to be looking for a job tomorrow because we now have a pretty good
3518 idea of what did happen.

3519 So the thing that he did do that we can't argue about, is he left the store to take
3520 his dog to the vet. And he should have shut the store down, and he didn't. That's
3521 true. There's no getting around that. But to say that there's a drug nuisance here
3522 because he bought products legally through distributors and had them on display in
3523 his store is about as unfair and unjust a thing as I could possibly think of.

3524 The fact that he trusted an employee and didn't search the whole store, you
3525 know, the City says, well, he's responsible for everything the store, right? Think about
3526 that. Does that mean that whoever owns any store in town is responsible for anything

3527 their employees bring in? That's ridiculous. You're responsible for the things that you
3528 know about or that you reasonably should have known about. But those bags were
3529 hidden underneath that photo box that hadn't been used for months.

3530 And so when you look at the actual proof that the City has, there isn't any, other
3531 than those tests. And those tests were of products that were purchased legally
3532 through the channels that he was supposed to purchase them through. And so we
3533 would ask that the Committee consider the actual proof, which there isn't any, other
3534 than those tests, and the fact that, for the most part, he's been able to follow the law
3535 and has tried his best.

3536 The fact that he had one employee that took advantage of him should not result
3537 in losing a liquor license. And he is willing to accept whatever is agreeable to the
3538 punishment or whatever for leaving the shop to take the dog into the vet. There was
3539 no excuse for that. I don't believe that's, one moment.

3540 [Inaudible] one last thing just because it seems like it's important to the City.
3541 Fez was a, the dog's name. And it was just really common. It was voted on. It was a
3542 big deal on the Internet. And that was what they came up with. And so it doesn't
3543 really suggest much other than, you know, the name was something that whoever was
3544 using the phone just used. It was a big deal at the store. They voted on it on the
3545 Internet. Thank you.

3546

3547 [03:24:44]

3548 **ATTORNEY ZILAVY:** Again, the psilocybin, you heard Detective Kneubuhler testify
3549 that it was a mass quantity of it, to the extent that he has not seen hardly ever in the
3550 course of his career, and that the quantity that was in the store is indicative of
3551 distribution and delivery. And same with all of the illegal THC product that was found.

3552 I would just, if he's going to die on his assertion that you can purchase hemp
3553 legally, and then over time, it becomes illegal, then he better be testing it every two
3554 months to make sure that it stays within the legal range because that's what you have
3555 to do. I mean, you can't sell illegal product. And especially when you are a licensed
3556 establishment, you have to abide by the laws.

3557 And I think you're under even more scrutiny because of the privilege of getting
3558 that license. And I think there's an abundance of evidence that he abused that
3559 privilege and has violated the law, and to a criminal extent with the, like I said, even if
3560 you want to give him the THC, there's still the psilocybin. And I think all of the facts
3561 taken together, all the testimony you heard, you heard Detective Kneubuhler testify
3562 that he has assets that far exceed what he reports as his earnings are.

3563 Again, it might be circumstantial evidence, but I submit to you that
3564 circumstantial evidence is sometimes more powerful than the direct evidence. And
3565 again, I think the City has proven the allegations. And given the totality of the
3566 circumstances, this, I would request the Committee immediately revoke the liquor
3567 license. Thank you.

3568

3569 [03:27:05]

3570 **CHAIR BARUSHOK:** That closes the testimony. And now we will go into closed
3571 session to deliberate regarding the evidence presented and determine whether the
3572 City has proven each count in the complaint and then recommended actions that we
3573 will recommend to the full Committee.

3574

3575 **ATTORNEY MCREYNOLDS:** So to get into closed session, basically, you'll need a
3576 motion and a vote.

3577

3578 **CHAIR BARUSHOK:** Mm-hmm. So this was noticed that it would be a possible
3579 closed session. Please take notice that when considering the following item, the
3580 ALRC may go into closed session from time to time, pursuant to Sections 19.85(1)(a),
3581 (1)(b), and (1)(g) of the Wisconsin Statutes, which are, do I read the statute?

3582

3583 **ATTORNEY MCREYNOLDS:** You have to generally explain what will happen in the
3584 closed session.

3585

3586 **CHAIR BARUSHOK:** Yeah. So we're going to deliberate on this case, which is the
3587 subject of this quasi-judicial hearing, consider licensed, consider discipline of the
3588 Fusion, licensed by ALRC, and confer with legal counsel for the ALRC [inaudible]
3589 rendering oral or written advice concerning strategy to be adopted by the body, with
3590 respect to litigation in which it or, is, it is or is likely to become involved. And further,
3591 please take notice that if the ALRC goes into closed session, it may return to open
3592 session immediately without giving the 12-hours' notice, under Section 19.85(2)
3593 Wisconsin Statutes.

3594 So one more thing, we, I'll tell you, I'll give you a time that we won't come back
3595 earlier than such time. So I'm, I think for simplicity's sake, I'll make the motion that we
3596 go into closed session, and we will come back in the open session to vote in not less
3597 than 15 minutes from now. That's 9:00 p.m.

3598

3599 **ALDER FIGUEROA COLE:** Second.

3600

3601 **CHAIR BARUSHOK:** With the understanding that we may take much longer.

3602

3603 **ALDER FIGUEROA COLE:** Second.

3604

3605 **CHAIR BARUSHOK:** Okay. It's moved and seconded. Does everyone understand
3606 what's happening?

3607

3608 **ATTORNEY ZILAVY:** No [inaudible].

3609

3610 **CHAIR BARUSHOK:** Okay.

3611

3612 **ATTORNEY MCREYNOLDS:** So do you want me to give it a shot?

3613

3614 **CHAIR BARUSHOK:** Give it a try, yeah.

3615

3616 **ATTORNEY MCREYNOLDS:** So we've properly noticed and now stated that we'll go
3617 into closed session. And then we will come back into open session tonight. And
3618 anyone who is a Member of the ALRC can stay here. Everyone else will have to
3619 leave. And then you can come back in 15 minutes and wait outside. And we will not
3620 start again in open session faster than 15 minutes.

3621

3622 [03:30:19]

3623 **ATTORNEY ZILAVY:** And can we take our [inaudible] . . .

3624

3625 **ATTORNEY MCREYNOLDS:** Yeah, that works too.

3626

3627 **ATTORNEY ZILAVY:** Call us when you're [inaudible]?

3628

3629 **ATTORNEY MCREYNOLDS:** Yeah. The trick is we just can't say a time. And then if
3630 we're in front of that time, we can't start until that time hits anyway. So, yeah, let's say
3631 we'll be back, if we're done, in 15 minutes. Otherwise, we will have Jim contact the
3632 parties when we're coming back into open session. And we will not go back into open
3633 session without the parties. Are there any questions from the parties?

3634

3635 **ATTORNEY DELYEA:** [Inaudible].

3636

3637 **ATTORNEY MCREYNOLDS:** All right.

3638

3639 **CHAIR BARUSHOK:** All right. It's been moved and seconded. Any objection from
3640 Committee Members to recording a unanimous yes vote?

3641

3642 **ATTORNEY ZILAVY:** [Inaudible].

3643

3644 **ATTORNEY MCREYNOLDS:** Yeah, we're staying here.

3645

3646 **CHAIR BARUSHOK:** We'll be here. There's no objection, so we are closed once
3647 everyone is gone. All right, we're good to go. Is there a motion to reconvene? If not,
3648 I'll move.

3649

3650 **ATTORNEY MCREYNOLDS:** Well, let's make sure we [inaudible] . . .

3651

3652 **ALDER GLENN:** Second.

3653

3654 **CHAIR BARUSHOK:** Okay, moved and seconded. Any objection? Seeing none, we
3655 are back in open session. Would any Alder like to speak at this time? Alder Figueroa
3656 Cole.

3657

3658 **ALDER FIGUEROA COLE:** Thank you. Woops. I just want to thank everyone that
3659 made this hearing process possible, from the beginning of establishing the
3660 procedures, to the witnesses, the lawyers, the Committee Members, and all the
3661 people from staff, and the people participating on the call or on the floor.

3662 So this is a, you know, it takes a village to get this done, and I think we have
3663 accomplished that. Hold on a for a second. I have to plug my computer before it goes
3664 dead. Sorry about that. Okay, perfect. So we had a discussion in closed session,
3665 and I just want to kind of summarize, from my perspective, where I'm coming about to
3666 my decision-making process.

3667 [03:33:18]

3668 The volume of photographic evidence and testimony from multiple agencies is,
3669 has been deeply concerning. However, I want to set that aside for a moment because
3670 there have been clear violations that fall directly within the jurisdiction of the Alcohol
3671 License Review Committee.

3672 There appears to be a failure to follow basic operation requirements. The
3673 establishment serving alcohol must have a licensed bartender present or staff who are
3674 properly supervised. In this case, even the license holder's own staff appears to be
3675 unaware of this fundamental requirement, which is the responsibility of the license
3676 holder to clearly communicate and enforce within his employees.

3677 There, when these conditions are not met, the establishment should not remain
3678 open for alcohol services regardless of any circumstances. It doesn't matter what the
3679 circumstance is. The appropriate action is to close the place until compliance is
3680 restored.

3681 There also seems to be a lack of product quality control mechanism in place to
3682 ensure the consumers' safety. And there's no evidence or of a vendor qualification
3683 process, other than trusting everyone the licensee holder does business with. Taken
3684 together, the apparent disregard of fundamental licensing rules, along with the
3685 concerns raised through testimony, warrants serious scrutiny.

3686 As for the substantial body of evidence related to the illegal distribution of
3687 drugs, I will not repeat Attorney Zilavy's prior statements. However, I will note that
3688 relying on a simple Google search as a defense does not constitute substantial or
3689 credible evidence, particularly when weighted against documented laboratory test
3690 results. So with that, I guess we'll give it back to you, Chair. Thank you.

3691

3692 **CHAIR BARUSHOK:** I entertain a motion on Count A, violation of Chapter 38 of the
3693 MGO within the meaning of MGO3810(1)(a)(12), that the licensed premises have
3694 been operating in such a manner that it constitutes a public or private nuisance,
3695 specifically a violation of Section 823.113(1) of the Wisconsin Statute.

3696

3697 **ALDER FIGUEROA COLE:** Did you make that motion, or are you asking us to make
3698 a motion?

3699

3700 **CHAIR BARUSHOK:** I, if one of you wants to move it, go ahead.

3701

3702 **ALDER FIGUEROA COLE:** Okay, I move to adopt, yes, whatever the proper term is.

3703

3704 [03:36:02]

3705 **CHAIR BARUSHOK:** I won't . . .

3706

3707 **ATTORNEY MCREYNOLDS:** [Inaudible] suggest.

3708

3709 **ALDER FIGUEROA COLE:** I move to recommend, I think, no?

3710

3711 **ATTORNEY MCREYNOLDS:** [Inaudible]. I'll do this. I would recommend the motion
3712 be in the form of that you find that the City prosecutor has proven this count by a
3713 preponderance of the evidence.

3714

3715 **CHAIR BARUSHOK:** Are you okay with that wording, Alder Figueroa Cole?

3716

3717 **ALDER FIGUEROA COLE:** If I don't have to repeat it.

3718

3719 **CHAIR BARUSHOK:** You don't have to.

3720

3721 **ALDER FIGUEROA COLE:** Okay. Yes, I am.

3722

3723 **CHAIR BARUSHOK:** Okay. And so I'm not going to do seconds. We'll just go
3724 straight to the roll call. Mr. Verbick.

3725

3726 **CLERK VERBICK:** Alder Glenn?

3727

3728 **ALDER GLENN:** Aye.

3729

3730 **CLERK VERBICK:** Alder Glenn, aye. Alder Figueroa Cole?

3731

3732 **ALDER FIGUEROA COLE:** Aye.

3733

3734 **CLERK VERBICK:** Alder Figueroa Cole, aye. Do you want me to . . .

3735

3736 **CHAIR BARUSHOK:** Yeah, go ahead just so I can explain.

3737

3738 **CLERK VERBICK:** Mr. Barushok?

3739

3740 **CHAIR BARUSHOK:** I'll vote present as a Chair in accordance with our, with the
3741 rules of the Committee and the, our practice.

3742

3743 **CLERK VERBICK:** Okay. The vote is two ayes and one present.

3744

3745 **ALDER FIGUEROA COLE:** Just two ayes.

3746

3747 **CHAIR BARUSHOK:** So two ayes, that motion carries. Next . . .

3748

3749 **ATTORNEY MCREYNOLDS:** Number two.

3750

3751 **CHAIR BARUSHOK:** . . . number, so on A2, a motion that the Committee finds by
3752 preponderance of evidence that Captain Kipp Hartman issued a notice of public
3753 nuisance to David Keller, the landlord, for 36 South Bassett Street.

3754

3755 **ALDER FIGUEROA COLE:** I move to, again, to recommend.

3756

3757 **CHAIR BARUSHOK:** Okay. Mr. Verbick?

3758

3759 **CLERK VERBICK:** Give me one moment.

3760

3761 **CHAIR BARUSHOK:** Take your time.

3762

3763 **CLERK VERBICK:** I'm sorry. Who moved that one? That was Alder Figueroa Cole?

3764

3765 **CHAIR BARUSHOK:** Yeah, does it [inaudible] with a second?

3766

3767 **CLERK VERBICK:** Yeah.

3768

3769 **CHAIR BARUSHOK:** Just me as the second.

3770

3771 **CLERK VERBICK:** Okay. Alder Figueroa Cole?

3772

3773 **ALDER FIGUEROA COLE:** Oh, I'm sorry, aye.

3774

3775 **CLERK VERBICK:** Alder Figueroa Cole, aye. Alder Glenn?

3776

3777 **ALDER GLENN:** Aye.

3778

3779 **CLERK VERBICK:** Alder Glenn, aye. Mr. Barushok?

3780

3781 **CHAIR BARUSHOK:** Present.

3782

3783 **CLERK VERBICK:** Mr. Barushok, present. The vote is two ayes and one present.

3784

3785 **CHAIR BARUSHOK:** Motion carries. Okay. Now on to B, motion in the form of the

3786 Committee finds by preponderance of evidence a violation of Chapter 38 of the MGO

3787 within the meaning of 38.10(1)(a)(1), fail to have a licensed operator/bartender on site

3788 during business hours in violation of 38.06(2). So if, do one of you want it?

3789

3790 [03:39:18]

3791 **ALDER FIGUEROA COLE:** Second or a move to recommend?

3792

3793 **CHAIR BARUSHOK:** You take the motion, so moved.

3794

3795 **ALDER FIGUEROA COLE:** I move to motion, yeah.

3796

3797 **CHAIR BARUSHOK:** Okay.

3798

3799 **ATTORNEY MCREYNOLDS:** And just make sure, and this is just for number one,

3800 October 8th.

3801

3802 **CHAIR BARUSHOK:** For the, yeah, on the October 8th, on the date October 8, 2025.

3803

3804 **ALDER FIGUEROA COLE:** Move to recommend.

3805

3806 **CHAIR BARUSHOK:** Thank you.

3807

3808 **CLERK VERBICK:** And which one is this on?

3809

3810 **ATTORNEY MCREYNOLDS:** B1.

3811

3812 **CLERK VERBICK:** B1, okay. Okay. And is there a second on that?

3813

3814 **CHAIR BARUSHOK:** I'll be second.

3815

3816 **CLERK VERBICK:** Okay. Alder Figueroa Cole?

3817

3818 **ALDER FIGUEROA COLE:** Aye.

3819

3820 **CLERK VERBICK:** Alder Figueroa Cole, aye. Alder Glenn?

3821

3822 **ALDER GLENN:** Aye.

3823

3824 **CLERK VERBICK:** Alder Glenn, aye. Mr. Barushok?

3825

3826 **CHAIR BARUSHOK:** Present.

3827

3828 **CLERK VERBICK:** Mr. Barushok, present. The vote is two ayes and one present.

3829

3830 **CHAIR BARUSHOK:** So on number, that carries, on number two, it's the same

3831 question but for the date January 15th, 2026.

3832

3833 **ALDER FIGUEROA COLE:** Move to recommend.

3834

3835 **CHAIR BARUSHOK:** Moved by Alder Figueroa Cole. Seconded by me, for the sake

3836 of . . .

3837

3838 **CLERK VERBICK:** Okay. Alder Glenn?

3839

3840 **ALDER GLENN:** No.

3841

3842 **CLERK VERBICK:** Alder Glenn, no. Alder Figueroa Cole?

3843

3844 **ALDER FIGUEROA COLE:** No.

3845

3846 **CLERK VERBICK:** Alder Figueroa Cole, no. Mr. Barushok?

3847

3848 **CHAIR BARUSHOK:** Present.

3849

3850 **CLERK VERBICK:** Mr. Barushok, present. The vote is two noes and one present.

3851

3852 **CHAIR BARUSHOK:** That motion fails. Oh, recommended action, okay. So now the
3853 question before the Committee is on recommended action. Alder Figueroa Cole, you
3854 want to make a motion?

3855

3856 [03:42:00]

3857 **ALDER FIGUEROA COLE:** Colin, is your mic on?

3858

3859 **CHAIR BARUSHOK:** Yeah. We are on recommended action. Would you like to
3860 make a motion, Alder Figueroa Cole, on that section?

3861

3862 **ALDER FIGUEROA COLE:** Did you read it already? I'm sorry.

3863

3864 **CHAIR BARUSHOK:** I'll make the motion.

3865

3866 **ALDER FIGUEROA COLE:** Yes, thank you.

3867

3868 **CHAIR BARUSHOK:** I'll read the motion and put it to you two to decide who takes it.

3869

3870 **ALDER FIGUEROA COLE:** Yeah, go ahead.

3871

3872 **CHAIR BARUSHOK:** The options are a motion to suspend for a minimum of 3 days
3873 to a maximum of 90 days, to revoke the license, and that, those are the only two
3874 options.

3875

3876 **ALDER FIGUEROA COLE:** Okay. So I move for the license to be revoked.
3877
3878 **CHAIR BARUSHOK:** Okay. And I'm seconding for the sake of putting it before the
3879 Committee. So moved and seconded. Whenever you're ready, Mr. Verbick, call the
3880 roll.
3881
3882 **CLERK VERBICK:** Alder Figueroa Cole?
3883
3884 **ALDER FIGUEROA COLE:** Aye.
3885
3886 **CLERK VERBICK:** Alder Figueroa Cole, aye. Alder Glenn?
3887
3888 **ALDER GLENN:** Aye.
3889
3890 **CLERK VERBICK:** Alder Glenn, aye. Mr. Barushok?
3891
3892 **CHAIR BARUSHOK:** Present.
3893
3894 **CLERK VERBICK:** Mr. Barushok, present. The vote is two ayes and one present.
3895
3896 **CHAIR BARUSHOK:** All right. So there's no more business to conduct here, so a
3897 motion to adjourn is in order. I'll move to adjourn, unless someone really wants it.
3898
3899 **ALDER GLENN:** Second.
3900

3901 **CHAIR BARUSHOK:** Okay, moved by Barushok, seconded by Glenn. Any
3902 objection? Seeing none, thank you, everyone.