



STATE OF WISCONSIN      BEFORE THE ALCOHOL      DANE COUNTY  
LICENSE REVIEW COMMITTEE  
OF THE CITY OF MADISON

\* \* \* \* \*

CITY OF MADISON,

Complainant,

-vs-

RB SCHULTZY, LLC  
d/b/a Baldwin Street Grille  
1304 E. Washington Avenue  
Madison, WI 53703,

REVOCATION  
OF CLASS "B" COMBINATION  
ALCOHOL BEVERAGE LICENSE

Respondent.

\* \* \* \* \*

TRANSCRIPT OF PROCEEDINGS

Wednesday, October 5, 2016

5:30 p.m.

Reported by: SANDRA L. McDONALD



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1                   TRANSCRIPT OF PROCEEDINGS, taken in the  
2                   above-entitled action, before SANDRA L. McDONALD, a  
3                   Notary Public in and for the State of Wisconsin, at  
4                   the Madison Municipal Building, 210 Martin Luther  
5                   King Jr. Boulevard, in the City of Madison and State  
6                   of Wisconsin, on the 5th day of October, 2016,  
7                   commencing at 5:30 p.m.

8                   \* \* \* \* \*

9                   ALCOHOL LICENSE REVIEW SUBCOMMITTEE

10                  TOM LANDGRAF, CHAIR                                 MICHAEL DONNELLY  
11                  FERNANDO CANO OSPINA                                 PAUL SKIDMORE

12                  (Assistant City Attorney Roger Allen appears  
13                  as counsel to the ALRC Subcommittee)

14                  \* \* \* \* \*

15                  A P P E A R A N C E S

16                  JENNIFER ZILAVY,  
17                                 Assistant City Attorney,  
18                                 CITY OF MADISON,  
19                                 OFFICE OF THE CITY ATTORNEY,  
20                                 210 Martin Luther King, Jr. Boulevard,  
21                                 Room 401,  
22                                 Madison, Wisconsin 53703  
23                                 appearing on behalf of the  
24                                 complainant;

25                  RICK PETRI,  
                               MURPHY DESMOND, S.C.,  
                               Attorneys at Law,  
                               33 East Main Street, Suite 500,  
                               Madison, Wisconsin 53703,  
                               appearing on behalf of the respondent.

                  Also Present: JENNIFER HAAR, Clerk Designee  
  RYAN SCHULTZ  
  TIM TRPKOSH

MADISON FREELANCE REPORTERS, LLC

\* \* \* \* \*

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\* \* \* \* \*

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\* \* \* \* \*

(Original transcript filed with Jennifer Haar)

1 CHAIRPERSON LANDGRAF: Okay. Why  
2 don't we get started. I've got a prepared set  
3 of procedures that we need to go through, so I'm  
4 going to read through them and make sure that we  
5 get everything that needs to be on the record on  
6 the record. So my apologies ahead of time if I  
7 sound like I'm reading, because I am.

8 Good evening. My name is Tom  
9 Landgraf, I'm chairperson of the Madison Alcohol  
10 License Review Committee and also chairperson of  
11 this hearing committee or subcommittee of the  
12 ALRC. This is a license hearing pursuant to  
13 Chapter 38 of the Madison General Ordinances.

14 I will now call the case of the City  
15 of Madison versus Baldwin Street Grille. The  
16 following committee members are present, Michael  
17 Donnelley, Mr. Cano Ospina and Alder Skidmore.  
18 I always forget Alder Skidmore's name, my  
19 apologies. The City is represented by Assistant  
20 City Attorney Jennifer Zilavy, who is sitting  
21 off to my left here, and the Licensee is  
22 represented by Attorney Rick Petri. The  
23 Subcommittee has its own legal counsel assisting  
24 it, Attorney Roger Allen, who's here in the  
25 green shirt.

1                   The matter comes before the  
2                   Subcommittee on a complaint that has been filed  
3                   by the City of Madison. The Licensee has  
4                   previously acknowledged receipt of the complaint  
5                   and has entered a denial of the allegations  
6                   contained herein. This Subcommittee is charged  
7                   with hearing evidence and deciding whether any  
8                   of the charges against the Licensee are true,  
9                   and if so, the Subcommittee must make a  
10                  recommendation on what, if any, action the ALRC  
11                  shall take regarding the license.

12                  The Subcommittee will hear arguments  
13                  of counsel, testimony and evidence. The  
14                  Subcommittee will impartially weigh evidence and  
15                  testimony to arrive at its decisions. Arguments  
16                  of the counsel are just that, arguments. While  
17                  they may be helpful to this body in interpreting  
18                  the evidence, arguments are not evidence.  
19                  Hearsay is admissible in this proceeding.  
20                  Hearsay is a statement or statements that are  
21                  made outside of this hearing and are submitted  
22                  for the truth of the matter asserted in those  
23                  statements. Although admissible, no finding of  
24                  fact may be based solely on uncorroborated  
25                  hearsay.

1                   This hearing is open to the public.  
2                   However, if either party requests, I'll order  
3                   that witnesses be sequestered outside of this  
4                   hearing room until after they have testified. A  
5                   verbatim record of the proceedings is being made  
6                   by the court reporter.

7                   Assistant City Attorney Zilavy is the  
8                   prosecuting attorney for this matter. Assistant  
9                   City Attorney Roger Allen performs the role of  
10                  legal advisor to this subcommittee. The two  
11                  have not communicated regarding the substance of  
12                  this matter and will not communicate on this  
13                  matter unless you or your legal counsel are  
14                  involved in that communication. Assistant City  
15                  Attorney Allen will advise the Committee on  
16                  questions of law and procedure and may also  
17                  direct questions to the witnesses on behalf of  
18                  the Committee.

19                  And to Mr. Petri, you may present  
20                  evidence, call and examine witnesses and  
21                  cross-examine witnesses against you. Such  
22                  witnesses will be sworn. Subject to a motion  
23                  by consideration of the Subcommittee, I'll  
24                  rule upon all questions, objections and  
25                  motions as to procedural matters, admissibility

1 of evidence and similar issues. All objections  
2 to questions and motions should be directed to  
3 me.

4 You can testify on behalf -- testify  
5 on your behalf with regard to charges against  
6 you. However, what you say will be considered  
7 as evidence. Further, if you do testify, you  
8 may be cross-examined. Charges are proven if a  
9 preponderance of the evidence of a charge or  
10 charges against you are proven. You are advised  
11 by -- advised that the Subcommittee may  
12 recommend that your license be suspended,  
13 revoked or not renewed and that the ALRC or  
14 Common Council may accept or reject such  
15 recommendation as it may determine upon such  
16 recommendation whether your license should be  
17 suspended, revoked or renewed.

18 So Mr. Petri, you've been served, you  
19 and your client have been served with a summons  
20 for this hearing and a copy of the complaint  
21 against you, which has been filed with the  
22 Subcommittee for determination. I now request  
23 that the court reporter append as exhibits to  
24 the record a copy of the summons and complaint  
25 together with a copy of the affidavit of

1 service.

2 MR. PETERSON: No objection.

3 CHAIRPERSON LANDGRAF: Okay. And I  
4 now am going to depart just briefly from the  
5 script. One of the witnesses that the  
6 applicant or the attorney has requested be  
7 present is Alder Zellers, who's seated at the  
8 end of the table here. She has, as all City  
9 Council members, two places to be at the same  
10 time, so with Assistant City Attorney Zilavy's  
11 permission, I chatted with Attorney Petri, and  
12 the several questions that he wanted to ask  
13 Alderperson Zellers he's going to do right now  
14 so she is then freed up and can attend her other  
15 meeting.

16 MR. ALLEN: Mr. Chair, you should take  
17 opening statements from them before taking any  
18 evidence if they want to give opening  
19 statements.

20 CHAIRPERSON LANDGRAF: Oh, sorry,  
21 okay. That would be the next item on the  
22 agenda. Do the parties wish to give brief  
23 opening statements? If so, Attorney Zilavy  
24 would go first. And does the Licensee wish to  
25 reserve their statement to the start of the



1 evidence? Or you can do it now.

2 MS. ZILAVY: Well, I'm not sure  
3 opening statements are necessary. Attorney  
4 Petri said that they are not contesting the  
5 facts in the complaint. I do have a certified  
6 copy of the conviction that I will be submitting  
7 to the committee, but if they are not contesting  
8 the facts in the complaint, then basically  
9 they're taken as true and we go to the argument  
10 phase.

11 CHAIRPERSON LANDGRAF: Okay.

12 MR. PETRI: May I say something?

13 CHAIRPERSON LANDGRAF: You may.

14 MR. PETRI: Clearly, you have the  
15 authority to revoke, suspend or not renew this  
16 license. Statutorily and by ordinance, you may,  
17 but it's not required. It's an act of  
18 discretion, and I'm asking you to exercise that  
19 discretion, and that's the reason for calling  
20 the witnesses. So it's not necessary for the  
21 City to put on a case because we admit to it,  
22 okay? Shall I call the first witness?

23 CHAIRPERSON LANDGRAF: Okay.

24 MR. PETRI: Alder Zellers.

25

1                                   LEDELL ZELLERS,  
2                                   having been first duly sworn on oath,  
3                                   was examined and testified as follows:  
4

5                                   DIRECT EXAMINATION

6       BY MR. PETRI:

7       Q     Would you state your full name for the record,  
8                                   please?

9       A     Ledell Zellers.

10      Q     And how long have you been on the Common Council?

11      A     Since 2013.

12      Q     Since 2013?

13      A     Uh-huh.

14      Q     Really? I thought you were on longer than that.

15      A     Um-hum.

16      Q     Okay. And have you been representing District 2  
17                                   since then?

18      A     Yes.

19      Q     And Bassett Street -- or Baldwin Street Grille is in  
20                                   your district?

21      A     Yes.

22      Q     You indicated to me when we had a telephone  
23                                   conversation earlier this week that there were more  
24                                   calls for service in '13, in 2013 and 2014, and fewer  
25                                   in 2015 and 2016; is that correct?

1 A Yes.

2 Q And in terms of making that determination, did you  
3 ever have occasion to check any dispatch records?

4 A No, no. When I'm talking about that, I'm talking  
5 about contacts to me making complaints --

6 Q Okay.

7 A -- not with the police, so I don't have any  
8 information in regard to police calls.

9 Q Okay, thank you.

10 MS. ZILAVY: Can we just clarify? Are  
11 you speaking strictly in terms of the Baldwin  
12 Street Grille or her district that she  
13 represents?

14 MR. PETRI: The Baldwin Street  
15 Grille.

16 THE WITNESS: And that's what I'm --  
17 that's what I'm commenting on.

18 MS. ZILAVY: Okay.

19 A I had more complaints in regard to the Baldwin Street  
20 Grille in 2013 and 2014 than I have in 2015 and 2016.

21 Q Thank you. Have you had occasion to speak with any  
22 of your constituents about the Baldwin Street Grille?

23 A I did send out an e-mail to three of the people that  
24 live in closest proximity to that who I know have  
25 experienced problems and asked how things are going,

1 and they indicated that there are still occasions of  
2 noise associated with the Baldwin Street Grille, but  
3 all in all, they indicated that it is better than it  
4 was in 2013 and 2014.

5 Q Thank you. Have you ever been to the Baldwin Street  
6 Grille?

7 A Yes, I have.

8 Q Oh, you have? Was the service good when you were  
9 there?

10 A It was fine.

11 Q Okay.

12 A I try to get to a lot of the businesses in the  
13 district.

14 Q Have you ever met Ryan Schultz?

15 A Yes, I have.

16 MR. PETRI: Okay. I have nothing  
17 further.

18 MS. ZILAVY: I don't have any  
19 questions.

20 CHAIRPERSON LANDGRAF: Does any  
21 member of the committee have questions of  
22 Alder Zellers? Okay.

23 THE WITNESS: Okay. Thank you very  
24 much for your service.

25 CHAIRPERSON LANDGRAF: Thank you.

1 THE WITNESS: Yes.

2 MR. PETRI: Thank you. I call  
3 Brian Basham.

4 MR. ALLEN: Just a housekeeping  
5 matter, you are releasing her from her subpoena,  
6 so she's free to go?

7 MR. PETRI: Yes, I am.

8 MR. ALLEN: Thank you.

9

10 BRIAN BASHAM,  
11 having been first duly sworn on oath,  
12 was examined and testified as follows:

13

14

DIRECT EXAMINATION

15 BY MR. PETRI:

16 Q Okay. What position do you hold with the Department  
17 of Corrections?

18 A I'm a probation and parole officer.

19 Q Okay. And how long have you been doing that?

20 A Roughly four years.

21 Q Okay. What are your major job duties?

22 A Major job duties are to supervise individuals placed  
23 on supervision. It involves also orchestrating  
24 treatment needs, sanctions and that sort of thing. I  
25 mean, I could go on for a while.

1 Q Do you know from your own knowledge whether Ryan  
2 started treatment before his conviction, his most  
3 recent conviction?

4 A Without a release, I really can't speak on PHI.

5 Q What kind of release do you need?

6 A A protected health information release.

7 Q Do you have such a form?

8 A I do.

9 Q With you?

10 A I do not. I could speak to the -- we have developed  
11 a case plan at his initial visits, and he's addressed  
12 that case plan in his court conditions, and on his  
13 court conditions, which is general public, there is  
14 an AODA assessment on there.

15 Q I mean, I've got copies of his rules of supervision.

16 A Uh-huh.

17 Q Are you allowed to address these?

18 A Sure, yeah.

19 Q Okay.

20 A Just not protected health information, unless I have  
21 a release.

22 MR. PETRI: Yeah, these are rules of  
23 supervision. I'll have to keep one copy, and I  
24 don't think there's enough for everybody.

25 CHAIRPERSON LANDGRAF: I'll share this

1                   with Mr. Donnelly. Make sure that there's at  
2                   least one for the court reporter.

3                   (Respondent's Exhibit 1 is marked for identification)

4                   Q     From your perspective, has Ryan done everything  
5                   expected of him?

6                   A     Yes, yeah. That and above, yeah. He's done  
7                   everything up to this point. I've supervised him  
8                   since late December, and he's been actively  
9                   addressing his case plan, which is developed at the  
10                  beginning of supervision, so yes, yeah.

11                  Q     Would you say that he's one of your easier clients?

12                  A     I wouldn't even know how to answer that.

13                  Q     I mean to the extent to which you can form such  
14                  opinion.

15                  A     He hasn't caused himself any problems, which in turn  
16                  hasn't caused me any problems, but it's really about  
17                  him. But he hasn't had any violations that I'm aware  
18                  of, and he's been closely monitored since he's been  
19                  placed on supervision.

20                  Q     And do his rules of supervision include random breath  
21                  and blood tests?

22                  A     They do.

23                  Q     Is he on the bracelet?

24                  A     He is not currently on the bracelet.

25                  Q     Pardon me?

1 A He's not currently on the bracelet.

2 Q Okay.

3 A He was on the bracelet from roughly the end of  
4 December until May, I believe. I'd have to check my  
5 notes for exact dates. That included having a home  
6 Sobrieter in his residence, which was provided for  
7 from Dane County because he was out on jail  
8 diversion, so --

9 Q Okay. And did he ever have any negative results?

10 A No, nope, no negative results. They would have  
11 revoked his diversion if he did or if he didn't take  
12 a test.

13 Q Okay. I notice that, according to the rules that  
14 you have set for him, he's permitted to be in the  
15 Bassett -- or the Baldwin Street Grille, but not  
16 behind the bar serving drinks, correct?

17 A That is correct, yep.

18 Q As far as you know, has that ever been violated?

19 A Not that I -- not that I am aware of, no. And that's  
20 been addressed numerous times with him, and we've  
21 readdressed that, and he's asked for that to be  
22 revisited, and it has been revisited with my  
23 supervisor a few times, and we still feel that that  
24 is appropriate, but obviously, I mean, we can't -- we  
25 don't feel it's necessary to ban him from his own



1 business. I mean, he has a business to operate, but  
2 he can do other capacities there.

3 Q In his core case plan what are his strengths?

4 A I'll have to pull up his strengths to tell you. I  
5 know full-time employment is probably one. And these  
6 are generated from Compass, just so we're all -- the  
7 risk and assessment tool, just so everybody is aware  
8 of where we're getting this from.

9 MR. ALLEN: Could you explain that a  
10 little more to the committee members?

11 A So this is an actuary assessment tool that we use as  
12 a department to address risks and needs for offenders  
13 and then develop off of that a specific case plan,  
14 kind of like specific to them, what is their  
15 addressed need in going off of that. So it will give  
16 us feedback of things that we should work on more  
17 than others, depending on the answers given. It  
18 takes into account criminal background, and then it  
19 takes into account education background, family  
20 background and then various questions that are asked.

21 So his strengths are on here. It generates  
22 some strengths, and then we also talk about specific  
23 strengths. The ones that are generated by the  
24 system are Age 30 or Greater, Positive Associates  
25 and Peers, Social Environment, Full-time Employment,

1 High School Graduate or GED, Currently Employed,  
2 Current Skill or Trade, and then a couple we talked  
3 about that were his personal strengths, Driven and  
4 Problem Solving.

5 Q Thank you. As far as you know, is he still  
6 undergoing ongoing therapy and counseling?

7 A I can't -- I can't answer that.

8 Q Why can't you answer that?

9 A It's protected health information.

10 MR. PETRI: All right. Well, thank  
11 you very much. I have no further questions.

12 THE WITNESS: Okay, yep. You're  
13 welcome.

14 MS. ZILAVY: I have a couple.

15 THE WITNESS: Okay.

16 CROSS-EXAMINATION

17 BY MS. ZILAVY:

18 Q When you say that he's closely supervised, how often  
19 do you actually have a face-to-face with him?

20 A Sure, and it started off more. When he -- we have  
21 review periods every six months. He is currently at  
22 once a month. That alternates between home visits  
23 and office visits. And when he first started off,  
24 maybe I misspoke, he was really closely -- more  
25 closely supervised -- maybe that's what I meant to

1 say -- in regards to the alcohol monitoring. And  
2 that went on until -- I don't know the exact.  
3 Mid-May I believe is when that was pulled. He also  
4 has an IID installed in his vehicle, and I get those  
5 reports as well.

6 Q And you said that he had a Sobrieter in his house?

7 A That's correct.

8 Q Is that what you called it?

9 A Yeah. I don't know exactly what they call their  
10 units. We call them Sobrietors. It wasn't a  
11 Department of Corrections unit. It was Dane County's  
12 unit.

13 Q And what is that?

14 A So it's an alcohol device, and he's required to blow  
15 in it, and I believe that's random. So when it  
16 beeps, he has to supply a test. They also can be  
17 scheduled as well. So it's an alcohol monitoring  
18 test.

19 Q Is it a daily thing or weekly thing?

20 A It depends on how often they set it up, but I would  
21 suspect -- I don't want to speak on how they run  
22 their program, but it's definitely more than twice a  
23 day usually.

24 Q What if you work?

25 A They work that out with the times, because a bracelet

1 knows when you're home, so they would set that up. I  
2 can speak on our equipment. That's not -- I mean, we  
3 have similar equipment, and we would set that up like  
4 that. We've gone to hand-held devices now, though,  
5 but otherwise.

6 MS. ZILAVY: Okay. I don't have any  
7 further questions.

8 CHAIRPERSON LANDGRAF: Any questions  
9 of the witness by the Committee? Okay. Thank  
10 you very much.

11 THE WITNESS: Okay. Thank you, guys.  
12 Sorry about coming in late. The front doors are  
13 locked. I'm not familiar with this building, so  
14 I had to get in through the side, so I apologize  
15 for that.

16 MR. PETRI: Thank you.

17 THE WITNESS: I'm excused then?

18 MR. PETRI: Yes.

19 THE WITNESS: Okay, thank you.

20 MR. PETRI: I call Michael Reddin.

21  
22 MICHAEL REDDIN,  
23 having been first duly sworn on oath,  
24 was examined and testified as follows:  
25

MADISON FREELANCE REPORTERS, LLC

DIRECT EXAMINATION

1  
2 BY MR. PETRI:

3 Q Mr. Reddin, what's your occupation?

4 A I am an alcohol and drug and mental health therapist  
5 at Connections Counseling.

6 Q Thank you. You have an assessment, an intake note,  
7 right?

8 A Yes, we do.

9 Q He has not had a drink since his arrest. Is that  
10 important?

11 A It's always a good sign, yes. So part of our  
12 assessment is trying to figure out exactly how often  
13 someone would be using alcohol, and so I think it's a  
14 very important thing when something happens that you  
15 know is an indicator someone might need to cut back  
16 that they actually do that.

17 MR. ALLEN: Mr. Petri, when you say,  
18 "He," I take it your response is about the  
19 Licensee, so the record is clear?

20 MR. PETRI: Yes, yes.

21 Q Has there been any discussion with my client about  
22 his family's livelihood and his employees' financial  
23 well-being?

24 A Yes.

25 Q And you're aware that he's owned a bar and a

1 restaurant for four years, correct?

2 A I know he owns a bar and restaurant. Four years  
3 sounds about right, but I don't know exactly.

4 Q And he has a three year-old child?

5 A I believe he's four now.

6 Q Four?

7 A Yeah.

8 Q Time flies.

9 A I know, right? Three at the time we started working  
10 together.

11 Q And his spouse has a history of opioid addiction?

12 A That was the report to me from Mr. Schultz.

13 Q Pardon me?

14 A That was the report to me from Mr. Schultz.

15 Q Okay. I noticed that you have ASAM criteria.

16 A Yes.

17 Q What does that mean?

18 A So the ASAM criteria are a way of categorizing our  
19 perception of someone, like a client's risk to  
20 relapse, to continue using, and so there are six  
21 different categories that might compel someone to use  
22 again, and we rate someone within each of those six  
23 categories in terms of their risk level for  
24 relapsing.

25 Q And did you come to a conclusion about Ryan's risk

1 factors?

2 A So overall, Ryan's risk factors were quite low. The  
3 scale goes from .5, 1, 2, 3 or 4, with .5 being the  
4 lowest risk for relapse and 4 being the highest.

5 Q Okay.

6 A I believe on the evaluation, my initial evaluation,  
7 four of the six criteria were at a .5 level and two  
8 of the six criteria were at a 1, which is, again,  
9 overall quite low. It indicates that outpatient  
10 treatment would be appropriate as opposed to a higher  
11 level of care like intensive outpatient or inpatient  
12 treatment.

13 Q Okay. And you've met one time per week since  
14 October 9, last year?

15 A I think October 8th, but yes.

16 Q Okay.

17 A Yeah, just about one time per week.

18 Q Now, you also drafted a letter dated May 24, 2016  
19 regarding --

20 CHAIRPERSON LANDGRAF: For the record,  
21 this is the second piece of evidence you want to  
22 enter that you just passed out, and this is the  
23 third?

24 MR. PETRI: Yes

25 MR. ALLEN: So that letter counsel

1 passed out from the counselor will be  
2 Defendant's Exhibit 2. And do you want that  
3 second letter introduced, the March 24th?

4 MR. PETRI: Yes, May 24th.

5 MR. ALLEN: The May 24, 2016 letter  
6 will be Defendant's Exhibit 3.

7 (Respondent's 1 and 2 are marked for identification)

8 Q And would you read the last substantive sentence of  
9 the second paragraph?

10 A "Based on Mr. Schultz's report, it seems as though he  
11 has taken the OWI charge very seriously and has put  
12 significant energy into making changes in his life.  
13 It is the opinion of this writer that Mr. Schultz is  
14 sincere in these changes and remains motivated to  
15 maintain them going forward."

16 Q Okay. That was about five months ago. Has your  
17 opinion changed at all since then?

18 A No, sir. No, it has not.

19 Q Thank you. Is he still currently being treated by  
20 you?

21 A He is.

22 Q And how long do you anticipate that going on?

23 A As long as he would like to continue.

24 Q Has he ever shown any reluctance?

25 A No, nope. Mr. Schultz has always been very willing



1 to be there and probably perhaps more so than many of  
2 the clients that come through the door.

3 MR. PETRI: Thank you very much.

4 THE WITNESS: Yep.

5 CHAIRPERSON LANDGRAF: Questions by  
6 Attorney Zilavy?

7 CROSS-EXAMINATION

8 BY MS. ZILAVY:

9 Q It says on here Client's Reason for Seeking  
10 Treatment, and it says, "Lawyer recommended seeking  
11 counseling to," quote, "Get ahead of this court  
12 case," unquote. So when he initially came to you,  
13 that was the reason?

14 A He said that he wanted to get on top of things. "Get  
15 the ball rolling," I think was the phrase he used,  
16 and, yeah, be able to demonstrate that he's wanting  
17 to make changes in his life was the impression that I  
18 was left with after my first interview.

19 MS. ZILAVY: Okay.

20 MR. PETRI: Let me just say that, you  
21 know, I represent some criminal defendants in  
22 DUI cases, and I also tell them get your butt  
23 over and get an assessment.

24 MR. ALLEN: Mr. Petri, this is  
25 straying into a line of testifying rather than

1 asking questions. Is there a question here?

2 MR. PETRI: Eventually.

3 MR. ALLEN: Well, let's get to the  
4 question then.

5 MR. PETRI: I don't think I have any  
6 further questions.

7 THE WITNESS: Okay.

8 MS. ZILAVY: Nothing further.

9 CHAIRPERSON LANDGRAF: Any questions  
10 of the -- Mr. Donnelley?

11 MR. DONNELLY: This is a little  
12 nit-picky, but you said four of the six were at  
13 .5 and two at 1. It looked in this that it was  
14 three of each.

15 THE WITNESS: Could I take another  
16 look? I may have been mistaken. Excuse me, I  
17 was incorrect. You're right, so three of each,  
18 three at .5 and three at 1.

19 (Discussion off the record)

20 CHAIRPERSON LANDGRAF: Any other  
21 further questions from the Committee?  
22 Mr. Petri, did you have any other questions of  
23 the witness?

24 MR. PETRI: I thank you very much.

25 THE WITNESS: Thank you very much. I

1 appreciate your time here.

2 MR. ALLEN: Is he excused from the  
3 subpoena?

4 MR. PETRI: Yes. Thank you.

5 THE WITNESS: Thanks, folks.

6 MR. PETRI: Have a good evening.

7 THE WITNESS: You too.

8 CHAIRPERSON LANDGRAF: Mr. Petri, do  
9 you have any further witnesses?

10 MR. PETRI: I call Ryan Schultz.

11

12

RYAN SCHULTZ,

13

having been first duly sworn on oath,

14

was examined and testified as follows:

15

16

DIRECT EXAMINATION

17

BY MR. PETRI:

18

Q Ryan, when did you buy the Baldwin Street Grille?

19

A It was -- it came under my full ownership July 1,  
20 2013.

21

Q And was your alcohol beverage license approved?

22

A Yes, it was.

23

Q Has it been approved since that time?

24

A Yes, it has.

25

Q Each year?

1 A Renewal, you mean?

2 Q Pardon me?

3 A Are you speaking of renewals?

4 Q Yes.

5 A Yes.

6 Q Each year?

7 A Yes.

8 Q Did you ever -- were you ever untruthful in terms of  
9 answering the questions on the renewals?

10 A No, not to my knowledge.

11 Q Okay.

12 A I filled out everything to the best of my ability as  
13 truthful as possible.

14 Q And you've owned it since that time?

15 A Yes.

16 Q When were your DUI convictions?

17 A There was one when I was very young back in 2000, I  
18 believe, and then there were three more all within  
19 the same block of time from Michigan, and then the  
20 ones back here was immediately after my fiancée and I  
21 lost an unborn child at six and a half months, my  
22 best friend or partner in the fire department was  
23 killed in a motorcycle accident and I came back to  
24 Wisconsin with nothing. It was all during a very  
25 dark two-year period of time.

1 Q And that's when you were in Michigan?

2 A Yeah, Michigan and then moving back here.

3 Q Okay.

4 MR. ALLEN: I know somebody is going  
5 to ask. Can you put a year or number of years  
6 on that range?

7 THE WITNESS: Yeah, 2005 and 2006 I  
8 believe is when.

9 Q Did you disclose --

10 A It could be 2004. I'm just -- I get confused on  
11 charging, when I was charged and when I was convicted  
12 and the time period between the two. I don't know.

13 Q Did you disclose those offenses in the original  
14 application and in subsequent renewals?

15 A Yes.

16 Q Were you always renewed?

17 A Yes.

18 Q You're no longer with your girlfriend, correct?

19 A No.

20 Q And why are you not with her?

21 A She is a clinically-diagnosed dependent of pain pills  
22 and I -- being with an addict is very difficult, and  
23 we have a four year-old that I have majority custody  
24 with in order to get her proper help and treatment  
25 and all that.

1 Q So tell us something about the finances of Baldwin  
2 Street Grille.

3 A We are operating on -- I believe the numbers right  
4 now are 45 percent liquor and beer and about  
5 55 -- there's miscellaneous and retail that we're  
6 starting to get into. We wanted to do some branding.  
7 I don't know if that applies then to alcohol and  
8 non-alcohol, but food is roughly about 55 and alcohol  
9 and liquor is about 45. The food is operating on  
10 about a 37, 38 percent margin, which after employees  
11 and sales tax and all the other expenses comes to --  
12 we're lucky if we get a zero profit margin out of  
13 that after all is said and done with.

14 The liquor is served and the beer is served  
15 because craft beer is a really big draw. We do a lot  
16 of craft beer, you know. We do a lot for Craft Beer  
17 Week. We have revolving taps. We recognize that  
18 that is kind of a booming industry, and we take full  
19 advantage of it. And then, of course, you know,  
20 liquor and mixed drinks and wine is for fish fry,  
21 Saturday nights, and that's where we end up making a  
22 profit.

23 In the last four years I think our total profit  
24 for four years is right around -- I think it's  
25 \$27,000 or \$37,000, so it's not obviously a lot.

1 Food is there to be our draw. It's there to be what  
2 we're known for, and then to stay alive we have a  
3 liquor/beer license to kind of cover the losses or  
4 even make some to -- make some money to put into  
5 other things.

6 We have reinvested in ourselves. We're trying  
7 to -- I've been operating the whole time with a leaky  
8 roof, with a breaker box that blows breakers  
9 constantly, so we're reinvesting in the building  
10 itself to try to operate functionally, so to speak.  
11 Is that -- does that answer the question?

12 Q Okay. Do you know Tim Trpkosh?

13 A I do.

14 Q Is he here?

15 A Yes, he is.

16 Q Would you point him out?

17 A Tim Trpkosh is sitting to my right.

18 Q And was he supposed to be the agent to replace you as  
19 the liquor/beer agent?

20 A Yes. Tim and I have known each other for a very long  
21 time, and he's one of the few people I trust  
22 implicitly. He's also been my financial advisor for  
23 many years. And in order to protect my employees, my  
24 neighborhood and my business and my family, my son  
25 and I, I asked him if he would come on and help me

1 with my business, as I've helped with some of his.

2 Q And does he have a business in Monona?

3 A Yes, he does.

4 Q What is it?

5 A Tim's one of the owners of Breakwater Monona. He  
6 also runs a financial business, financial planning,  
7 but the Monona business, I believe, is Breakwater  
8 Monona.

9 Q Do you intend for him to replace you as agent?

10 A For Baldwin Street?

11 Q For Baldwin Street.

12 A Yes. After our last meeting, I was -- before the  
13 last meeting I was under the impression that it was a  
14 kind of question-and-answer, and I was -- to say it  
15 as nicely as possible, I was extremely surprised to  
16 hear that something had to be done by that time, and  
17 I scrambled to get everything in order.

18 We've filled out a change of agent form. It was  
19 supposed to be submitted. I have copies of it. The  
20 hard copy is somewhere with my lawyers. It was  
21 supposed to have been submitted by this point. I'm  
22 not sure if it has and it just hasn't made it across  
23 or what, but the paperwork has been initiated and  
24 underway very adamantly.

25 MR. PETRI: Let's just digress for a



1 moment. It was my impression that the change of  
2 agent form had been filed with the clerk about  
3 one or two weeks ago. I discovered just before  
4 this meeting that that was not the case, and I  
5 didn't know what to do. I just didn't know what  
6 to do. All I can do is tell you that it will  
7 filed tomorrow. You can't act on it now because  
8 it's not on your agenda.

9 THE WITNESS: I have copies of the  
10 original, if I could pass it around. We can't  
11 figure out if the other one has gotten lost or  
12 was filed or --

13 MR. PETRI: Well, let's wait until it  
14 is filed.

15 Q Is there anything else you want to say in your  
16 defense? Now's your chance to do it.

17 A Yeah. I know on paper it looks as though I'm a very  
18 questionable individual. I can trace everything back  
19 to, as I mentioned before, one period of my life that  
20 I was young and life threw a whole bunch of  
21 curveballs my way.

22 I was training to be a firefighter. I was  
23 engaged to a girl who was six and a half months  
24 pregnant, and within one night my partner and best  
25 friend was killed in a motorcycle accident, my

1 fiancée had also contacted food poisoning, to which  
2 she ended up in the hospital and lost our six and a  
3 half along or, you know, it wasn't -- she wasn't born  
4 yet. And that very night I ended up in jail, so I  
5 had to deal with all that while being in jail in  
6 Michigan.

7 After, I had come back here, waiting for her to  
8 move here with me. I was there for two and a half,  
9 three months. Upon release, she and I were no longer  
10 together, and she was with her boss, and I came back  
11 to Wisconsin with no job, no friend, no fiancée, no  
12 child, no anything. And the next year and a half to  
13 two years was really rough. That was all eight,  
14 nine, 10 years ago.

15 The past seven, eight years, I've found that my  
16 drive is success. I also really enjoy being part of  
17 a community, part of a group. I've tried my hand at  
18 multiple things. I was in a band for a while. I was  
19 hoping that would take off. We had contracts. It  
20 was not a good deal, I guess.

21 I was a firefighter, and after my partner Alex  
22 was killed in an accident I wasn't emotionally able  
23 to do that anymore. Throughout firefighting, I was a  
24 bartender. I've always been a very responsible  
25 bartender. I do -- I got into flare bartending,

1 flipping bottles, blowing fireballs, things like  
2 that. It's something I had a passion for other than  
3 just music and saving and helping people. I was also  
4 a registered EMT/paramedic for a while.

5 But when I was working at Baldwin Street Grille  
6 I met Maggie, who's the mother of my child. I knew  
7 she had a background with pills, but she was in  
8 treatment and everything was going fine. I took over  
9 Baldwin Street Grille when my son Sebastian was born.  
10 I took two weeks off, and the day I came back we --  
11 it was brought to my attention that we all had to  
12 find new jobs because the owner was selling the  
13 place, and I took a risk on taking it over.

14 I operate my business very, very ethically. I  
15 operate it -- I mean, I run a very tight ship. We've  
16 been audited by underage audits for cigarettes, for  
17 alcohol. I believe this last year, so far in 2013 --  
18 or 2016, there were three. Overall, I believe there  
19 has been eight, I think, or so. And we've got an  
20 outstanding recommendation on every single one of  
21 them.

22 We do not -- we don't put up with any violence,  
23 whether that be verbal or physical. We have not had  
24 very many issues at all. Noise has been brought to  
25 my attention on a few occasions, but we're doing

1 everything we can to take that down. We pride  
2 ourselves on being a valued member of the  
3 neighborhood, of Madison as a city and of Wisconsin  
4 as a state.

5 We have clientele that absolutely, they live  
6 and breathe on us, Packer Sundays, fish fry,  
7 Saturday and Sunday brunch. We have Madison Metro  
8 and Shopbop right nextdoor. You know, Warren Buffett  
9 always said that you can't be something to everyone,  
10 but you can be everything to some people, and we  
11 definitely are.

12 I have brought everything from Yelp reviews to  
13 signed letters from clientele, from employees stating  
14 that this is the best place they've ever worked, this  
15 is one of the greatest places they like to go. I  
16 grew up watching Cheers, and we've really modeled  
17 ourself after that.

18 I had spent a while sober after 2006-07, and  
19 honestly, I have not had much of a life with a  
20 newborn until currently four being a single father  
21 and a business owner. At this point I own two  
22 businesses, so -- I guess I don't own two businesses.  
23 I am the owner of one business, and I operate and  
24 help on another.

25 This place is everything to me, and without the

1 beer and liquor license, our food is going to have to  
2 go up in price, and I don't know if even that is  
3 going to help us survive. East Wash is a booming  
4 part of Madison. We are -- I am in the middle of a  
5 remodel. We are trying to remodel along with it, so  
6 as not to be left behind.

7 Life hasn't slowed down on the curveballs it's  
8 given us. Like I said, we've had a bad -- we've had  
9 a pretty crappy building that we are trying to fix  
10 up. We've got a new roof, a new electrical service.  
11 We've got now a walk-in food cooler downstairs.  
12 We've got dreams and designs to make it better and  
13 look better on the outside. We're moving with  
14 everything.

15 When my fiancée relapsed and I basically had to  
16 take the family onto my shoulders, I didn't hesitate.  
17 It's -- this last instance when I was issued a  
18 driving while under the influence, I was not out  
19 drinking with friends. I don't have much of a social  
20 life. I was blowing fireballs. I didn't know if  
21 that was going to affect some things or not. Since  
22 this time, I have not blown one fireball, I have not  
23 had one drink. I am adamantly dedicated to my family  
24 and my business, and this is -- this is everything to  
25 me.

1           Could I see my file quick? I just want to make  
2           sure I mentioned everything.

3                   MR. ALLEN: Do you have any further  
4           questions for your client, Mr. Petri?

5                   MR. PETRI: Not unless he says  
6           something that requires me to follow up with a  
7           question.

8                           (Witness reviews documents)

9           A       As Probation Officer Basham said, I have an  
10           occupational license. I did complete seven months of  
11           jail diversion within ankle bracelet and whatever  
12           it's called, the blower thing. And like I said, I've  
13           not had anything to drink, I've not blown one  
14           fireball since. It's not a game to me.

15                   The thing would go off between -- usually every  
16           single night between 9 and 11 and then once again  
17           between 3 and 4 a.m. every night, seven months of  
18           that, which would wake up my son as well usually. I  
19           have an IID in my car. I do have an occupational  
20           license. I've followed every single stipulation  
21           given to me by the courts either ahead of time or,  
22           with jail diversion's quote, "To the point of  
23           annoyance."

24                   I've made sure to contact with everything and am  
25           overly adamant about following protocol and making

1           sure that for when I stay sober for two, I stay  
2           within operating reasons. This, once again, is not a  
3           game to me. It is my life. It is my son's life.  
4           And it also is a big part of our neighborhood and our  
5           community. It's a big part of everyone around  
6           there's life as well.

7           Q     I just have a brief follow-up question. The  
8           properties behind you, are those residentially  
9           zoned?

10          A     Yes.

11          Q     And on the side of you, is that commercial?

12          A     There is a few businesses, EVP, I believe. Pasqual's  
13                is right around there. Avenue is right around there.  
14                A lot of it is residential. Messner's, which is no  
15                longer Messner's, the Eastmore Studios, the music  
16                recording studio, is right there on the corner as  
17                well, and then across the street is, I believe, all  
18                businesses, Shopbop and Madison Metro and all that.  
19                Our side of East Wash is mostly pretty much  
20                residential, mostly residential in the immediate  
21                area.

22                        MR. PETRI: Okay, thank you.

23                        CHAIRPERSON LANDGRAF: Any further  
24                questions?

25                        MR. PETRI: No.

1 CHAIRPERSON LANDGRAF: Attorney

2 Zilavy?

3 CROSS-EXAMINATION

4 BY MS. ZILAVY:

5 Q I just have a question about the fireball, since you  
6 referenced it several times. I don't know what  
7 blowing a fireball is, so --

8 CHAIRPERSON LANDGRAF: I thought I was  
9 the only one.

10 Q -- do you want to explain that?

11 A It's a carnival trick, if you will, the highest  
12 alcohol content. What I do is take a shot, hold it  
13 in my mouth and swish it around to aerate it and then  
14 light a match or a flame and blow and blow it out,  
15 and it creates a -- I have a slow-motion video that's  
16 really, really cool, but it creates a massive  
17 mushroom cloud of fire that kind of bursts and then  
18 goes away right away. I don't know if you've ever  
19 seen Polynesian fire dancers. They tend to do that  
20 stuff, fire breathers at the circus.

21 It's much the same thing, just not in such  
22 extravagance. It burns really quick and goes out,  
23 and it's just kind of a -- one of the advanced  
24 bartender parlor tricks, kind of like flipping  
25 bottles behind your back and doing shot cascades and



1 waterfalls and stuff.

2 MS. ZILAVY: Just so you know, that  
3 kind of thing is not something that, A, the fire  
4 department would be real pleased about and, B,  
5 could lead to disciplinary action, so I hope  
6 that nobody at your place is doing that --

7 THE WITNESS: No.

8 MS. ZILAVY: -- and that you don't do  
9 it either.

10 THE WITNESS: Right.

11 MS. ZILAVY: Nothing else.

12 CHAIRPERSON LANDGRAF: Any questions  
13 from the Committee? Mr. Donnelly?

14 MR. DONNELLY: Mr. Schultz, you said  
15 that you own one business and operate and help  
16 with another. What's the other one?

17 THE WITNESS: It's the property that  
18 I've been helping with, the property that  
19 Baldwin Street is on, the land and the building,  
20 helping remodel that one. I've also been trying  
21 to figure out, if this goes array, any type of  
22 consulting. I've been consulting or I've been  
23 trying my hand with consulting for food and for  
24 operationals, operational purposes, trying to  
25 get involved in possibly other places, nothing

1 quite yet substantially, but there's a couple  
2 places in Verona that need help, there's new  
3 people I've talked to around Madison, just kind  
4 of getting my feet wet in case I have to make  
5 Plan B or C or D or E or F.

6 MR. DONNELLY: Sure, and I'm pretty  
7 sure I read this when I dug through, and I  
8 haven't been able to find it. When you had your  
9 most recent DUI, what was your blood alcohol  
10 content?

11 THE WITNESS: I was told that it  
12 was -- that I had blown over the limit, and I  
13 believe it was --

14 MR. DONNELLY: But that wasn't the .08  
15 limit, right?

16 THE WITNESS: It was a .02, because  
17 after your third, I believe you can get --

18 MR. DONNELLY: There it is, okay.

19 THE WITNESS: After your third DUI,  
20 you can get a .02 or greater, which is something  
21 I didn't know, that it was a zero tolerance law.  
22 Also, as long as the -- I also wasn't aware that  
23 I had, I believe, a fourth, because at the time  
24 of my fourth it was actually a second, because  
25 Michigan hadn't been sharing any information,

1 so --

2 MR. DONNELLY: They kind of walloped  
3 you all at once?

4 THE WITNESS: Yes.

5 MR. DONNELLY: So when they told you  
6 it was over the limit of .02, did they  
7 explicitly say --

8 THE WITNESS: I didn't know that. I  
9 thought that they were speaking to, "You're over  
10 the limit," and I said, "That can't be." But I  
11 was never told what it was.

12 MR. DONNELLY: Okay.

13 THE WITNESS: I just heard, "Over the  
14 limit," and then I had planned on possibly  
15 fighting it, but that was when I was informed  
16 that it was .02 and any drink means you're over  
17 the limit, and I said, well, there goes that.

18 MR. DONNELLY: Yeah, you can stand too  
19 close to one.

20 THE WITNESS: Right.

21 MR. DONNELLY: Okay. I don't have any  
22 more questions.

23 CHAIRPERSON LANDGRAF: Mr. Ospina?

24 MR. OSPINA: So you talked about  
25 having a plan of having a new agent for your

1 business. What would be your responsibility in  
2 the business then with a new agent if the new  
3 agent is accepted?

4 THE WITNESS: Accounting. I do all  
5 the books. I keep very, very close track of  
6 everything that goes in and out. I've learned  
7 quite a lot of accounting from what I believe to  
8 be one of the best accountants out there. So I  
9 do all the books. I do all of the ordering. I  
10 do train a lot of -- any special training of the  
11 kitchen staff and of the bar staff, showing them  
12 around.

13 I also head up a lot of community  
14 relations. We have done catering for the  
15 Neighborhood Association, the Tenney-Lapham  
16 Neighborhood Association. We donate catering  
17 for their annual -- which is coming up next  
18 week, their annual big meeting, I guess. We've  
19 done many fundraisers, Leukemia, Lymphoma.

20 One of our employees currently, Dana,  
21 is on a leave. She was diagnosed with bone  
22 cancer. We did a benefit for her. We've done  
23 benefits for memorials for people around the  
24 neighborhood. So I do event planning as well  
25 for the company.

1 I also orchestrate leagues, pool  
2 leagues, dart leagues, try to get people to sign  
3 up. We also have a fantasy football league,  
4 which is my favorite.

5 MR. OSPINA: So what would be the  
6 responsibility of the agent then?

7 THE WITNESS: The responsibility of  
8 the agent would foresee anything having to do  
9 with liquor, I guess, making sure that all of  
10 the -- you know, which like I said, once again,  
11 we have never had a problem with, so but making  
12 sure that all the bartenders are sound,  
13 basically doing the liquor ordering, doing the  
14 liquor ordering, coming up with drinks, things  
15 like that. I would basically see myself out of  
16 any alcohol-associated procedures is the right  
17 word, I guess.

18 MR. OSPINA: Sure. And then this will  
19 be an employee of your company then? Would this  
20 person be a paid employee, or is this person a  
21 partner?

22 THE WITNESS: No, we've also -- I've  
23 also filed a resolution of an LLC, just because  
24 I know that employees can kind of get  
25 overzealous, and when someone is involved, they

1                   tend to take things more seriously. Once again,  
2                   I trust Tim. He's one of the few people I do.  
3                   But I brought him on as a manager of the LLC, so  
4                   he's invested in the company itself.

5                   MR. OSPINA: So there will be like  
6                   businesses coming together?

7                   THE WITNESS: Yes, a business  
8                   partnership instead of just employee/employer, I  
9                   guess.

10                  MR. OSPINA: Okay. And are you going  
11                  with that solution even if there is no  
12                  revocation?

13                  THE WITNESS: Yes. That is -- I mean,  
14                  this -- I mentioned at the last hearing I was  
15                  under very adamant, I guess, advisement that it  
16                  was an informational hearing, that we were going  
17                  to propose a couple ideas and see which one was  
18                  received at any possible -- or at the possible  
19                  highest level, and then I was surprised at how  
20                  the outcome of that meeting went.

21                  MR. OSPINA: So when is your plan to  
22                  have all that, the new business, this new whole  
23                  thing done?

24                  THE WITNESS: We've -- we've put --  
25                  well, I was also surprised today when the

1 appointment of the new liquor/beer agent hadn't  
2 been filed, because I was under the impression  
3 that that was taken care of. I have a copy of  
4 it, but I know we need the hard copy to be  
5 filed. So I'm wondering if there is a reason  
6 that it hasn't been done yet or if it was lost  
7 or there was a miscommunication or maybe it just  
8 hasn't been --

9 MR. OSPINA: Maybe you misunderstood  
10 me. The new company, the new limited  
11 corporation, when are those papers to make that  
12 person a partner?

13 THE WITNESS: We've filed -- well,  
14 once again, I'm under the impression that it's  
15 already been filed.

16 MR. OSPINA: Those papers are already  
17 filed?

18 THE WITNESS: Yes, yes, and I have a  
19 copy of that as well, the consultant of  
20 resolution. This is something that, like I  
21 said, we had a few plans going into the last  
22 meeting, so I had preemptively -- I don't like  
23 to go into anything just blind. I want to have  
24 a Plan B, a Plan A, Plan B, Plan C, and they  
25 were all initiated. None of them had taken form

1 yet, and then after the last meeting, when it  
2 was asked if -- or it was debated upon whether I  
3 was lazy or didn't care, I didn't have time to  
4 play around anymore.

5 MR. OSPINA: Is that --

6 THE WITNESS: So under my impression,  
7 I have filed -- we have filed these already.

8 MR. OSPINA: Is your hope to continue  
9 open your business if there is a revocation and  
10 there is no -- there is a time or window when  
11 then there is no alcohol? Will you continue  
12 with your business open, or do you hope to close  
13 it for a while, or what is your plan?

14 THE WITNESS: I would try to continue  
15 it. Once again, because of our business model  
16 and because of our pricing, I highly doubt that  
17 it would survive too long. Like I said, we  
18 don't have -- we don't have mountains of cash  
19 sitting around. It's -- some months we're at a  
20 negative. Mainly, June and July and August  
21 we're at a negative, and then come football  
22 season we go positive, and that's mostly because  
23 of Packer games, mostly because, you know, when  
24 the winter months hit, people go out more often.  
25 And that is specifically where our profit margin



1 comes from.

2 MS. OSPINA: And one more question  
3 about the agent. How many hours a week do you  
4 expect the agent to be in your facility or  
5 present?

6 THE WITNESS: Hours a week, I would  
7 estimate about -- I would estimate, hours a  
8 week, 10 to 20 possibly. It would have to do  
9 with reps and possible trainings, depending on  
10 what's happening that week.

11 MR. OSPINA: Okay, thank you.

12 CHAIRPERSON LANDGRAF: Any further  
13 questions of Mr. Schultz by any member of the  
14 Committee?

15 CROSS-EXAMINATION (RESUMED)

16 BY MS. ZILAVY:

17 Q You said that you're under the impression that those  
18 documents are filed, and we know that the agent form  
19 hasn't been filed. Where are you talking about that  
20 they've been filed?

21 A Well, once again, I don't know a lot of legal things  
22 yet. I'm learning really quickly, let me tell you.

23 MR. PETRI: Department of Financial  
24 Institutions.

25 MS. ZILAVY: Okay. So nothing has

1                   been filed with the clerk's office, correct?

2                   MR. PETRI: Yes.

3                   MS. ZILAVY: Okay.

4           A    I can pass around -- I can pass around the copies of  
5           what should be filed with the -- I'm sorry, where was  
6           it?

7                   MR. PETRI: Department of Financial  
8           Institutions, State of Wisconsin.

9                   THE WITNESS: Okay.

10                  MR. PETRI: In fact, the city attorney  
11           has been mailed a copy of that some time ago.

12                  MR. ALLEN: I just want to clear up  
13           one thing. When a witness is being asked a  
14           question, they answer a question. Counsel on  
15           both sides, don't jump in and have sidebars  
16           unless the Chairperson authorizes you to do so.  
17           We're losing decorum here.

18                  THE WITNESS: I'm sorry, I apologize  
19           about that. What's a sidebar?

20                  MR. PETRI: He's taking a jab at me.

21                  THE WITNESS: okay.

22                  CHAIRPERSON LANDGRAF: Okay. So we  
23           have no further questions? Mr. Petri, do you  
24           have any other evidence?

25                  MR. PETRI: No other evidence.

1 CHAIRPERSON LANDGRAF: Ms. Zilavy?

2 MS. ZILAVY: I just want to submit  
3 this conviction for the fifth OWI, and that's  
4 the original.

5 CHAIRPERSON LANDGRAF: And you want  
6 this marked as an exhibit?

7 MR. ALLEN: That will be Plaintiff's  
8 or City's Exhibit 1.

9 CHAIRPERSON LANDGRAF: Are you going  
10 to comment on it?

11 MS. ZILAVY: It's just the certified  
12 copy of the felony conviction.

13 MR. PETRI: Can I have one?

14 (City's Exhibit 1 is marked for identification)

15 CHAIRPERSON LANDGRAF: Okay. So at  
16 this point, if Mr. Petri has nothing further,  
17 nor does the city attorney, does the Licensee  
18 have any motions that they want recorded?

19 MR. PETRI: I don't have any motion,  
20 per se.

21 CHAIRPERSON LANDGRAF: Okay. Do you  
22 have a closing statement?

23 MR. PETRI: I do. It's primarily the  
24 same as my opening statement. Now you've heard  
25 the evidence, and your job is to weigh that

1 evidence and make a decision about whether  
2 revocation, suspension or nonrenewal is  
3 appropriate. I'm suggesting to you that it's  
4 not. I'm suggesting to you that Ryan has done  
5 everything that he could do after the event,  
6 subsequent to the event.

7 He could have done something to have  
8 prevented it from happening in the first place,  
9 that is true, and that's all water over the dam.  
10 You have to deal with the situation as it is,  
11 and that's what I'm asking you to deal with.  
12 I'm asking you to look at this from a  
13 humanitarian standpoint for the loss of a  
14 business and the implications that it has for  
15 his family.

16 He has been responsible. He has been  
17 responsible with the exception of committing a  
18 felony, and while that certainly carries a price  
19 tag with it, he has paid his price for it. He  
20 shouldn't have to lose his business as a result  
21 of it either. That's all I'm saying. Have a  
22 little compassion, have a little understanding,  
23 and do the right thing. Thank you.

24 CHAIRPERSON LANDGRAF: Attorney  
25 Zilavy?

1 MS. ZILAVY: Well, I think the  
2 Committee showed its compassion and  
3 understanding when it renewed the liquor license  
4 last June. Again I will say that I think it was  
5 pretty clear the expectation and also the  
6 representation that Ryan would get on it and  
7 remedy the situation so that we wouldn't have to  
8 get to this point. I waited, and I waited, and  
9 I waited, and nothing came forward, so I drafted  
10 the complaint and filed the complaint, and I  
11 feel that that is the right thing to do and was  
12 the right thing to do.

13 The conviction obviously substantially  
14 relates to the licensing activity. It's a  
15 felony fifth OWI. I would perhaps feel  
16 differently if this offense had taken place 10,  
17 15 years ago, but it's within the last couple of  
18 years, and being that it's the fifth offense, I  
19 feel like the revocation needs to happen, that  
20 he should not have the liquor license.

21 And were this back in July and were  
22 you looking at a new application and a new  
23 agent, obviously that would have been the better  
24 situation for him. And that's what I had  
25 anticipated was going to happen, but it didn't,

1 and so now he sits with a license and he has the  
2 felony conviction, and since no documents have  
3 been filed with the clerk's office and obviously  
4 this won't be on your October agenda, you won't  
5 to be able to do anything, which means it would  
6 be November. What if you don't have quorum in  
7 November? So I would ask that you revoke the  
8 license.

9 MR. ALLEN: Mr. Chair, with your  
10 indulgence, I'd like to ask the attorneys a  
11 couple of questions.

12 CHAIRPERSON LANDGRAF: Certainly.

13 MR. ALLEN: And these questions will  
14 probably prove that there has been no  
15 communication between Attorney Zilavy and I or  
16 in fact Attorney Petri and I. Both counsel, I'd  
17 like you to address, since I have to advise the  
18 Committee when and if they go into closed  
19 session, I think you can both agree that it's  
20 125.04(5)(b) that states that no license or  
21 permit related to alcohol beverages may, subject  
22 to State Statute 111.321, 111.322, and 111.335,  
23 be issued under this chapter to any person who  
24 has habitually been a law offender or has been  
25 convicted of a felony, unless a person has been

1           duly pardoned.

2                         Now, those three statutes that are  
3           contained within the statutes are the Wisconsin  
4           Fair Employment Act discrimination provisions,  
5           which one part of that says that it is not  
6           employment discrimination to deny or revoke a  
7           license to someone who has a felony conviction  
8           or a criminal conviction that substantially  
9           relates to the facts and circumstances of the  
10          employment.

11                        So for both attorneys, I think it  
12          would be helpful to you to hear how they think  
13          these convictions either do or do not relate to  
14          the business or the license of operating a  
15          tavern, and also, I'd like to hear both and  
16          you'd probably want to hear both attorneys argue  
17          whether or not a record such as this makes this  
18          license applicant or the Licensee a habitual law  
19          offender. And so I'll ask -- since the City has  
20          the burden of proof, I'd ask Attorney Zilavy to  
21          answer those two questions from the City's point  
22          of view.

23                        MS. ZILAVY: In terms of whether the  
24          felony conviction substantially relates to the  
25          licensing activity, I think it speaks for itself

1 in that it was an offense that involved alcohol,  
2 and the reason it was a felony is because he has  
3 four prior such offenses involving alcohol. I  
4 would think that with that type of record, being  
5 in a bar and habitually working around alcohol  
6 is not a good place to be, and I think in terms  
7 of the City giving a license to somebody with  
8 that type of record is -- I'm not sure what word  
9 I'm looking for here, but I -- I don't think it  
10 should happen. In terms of -- what was the  
11 second part?

12 MR. ALLEN: Whether or not his record  
13 would disqualify him as a habitual law  
14 offender.

15 MS. ZILAVY: I would argue that five  
16 OWI offenses does equate with being a habitual  
17 law offender. I believe there's case law that  
18 says with two offenses, two or three, you can be  
19 deemed to be a habitual law offender. And  
20 again, if this was 10, 15 years removed from  
21 today, I would feel differently, but this last  
22 offense was just within the last couple of  
23 years. And Ryan spoke to tumultuous times and  
24 things in his life that happened that were the  
25 impetus for his drinking and his arrests for



1 drunk driving, and one thing I think about in  
2 listening to him talk is, you know, it sounds  
3 like financially his business is in somewhat of  
4 a precarious position, and I have concerns that  
5 that would at some point get to him and maybe  
6 cause another one of these incidents.

7 And you know, if he has a liquor  
8 license and he had an incident and let's say he  
9 drove his car into another person and killed  
10 somebody, well, then when that gets looked at,  
11 they're going to say, "Well, the City gave him a  
12 liquor license even though he's got five OWI  
13 convictions, the last one being a felony within  
14 the last couple of years," and I think that's  
15 something that I think you should note. That's  
16 it.

17 MR. ALLEN: Mr. Petri, the facts and  
18 circumstance of his conviction, do they relate  
19 to the license, and does your client's record  
20 demonstrate that he's a habitual law offender?

21 MR. PETRI: Habitual doesn't have a  
22 black and white definition to it. One could  
23 certainly argue that 1 through 4 was habitual,  
24 but with 1 through 4, he got approved. 1  
25 through 4 got approved. Is there a difference

1           between 4 and 5? Yeah, one. There is a  
2           difference. It's arbitrary. It's capricious.

3           You try to judge human beings in terms and  
4           make predictions about future behavior.  
5           Sometimes we're wrong. They're all odds.  
6           They're all odds. I believe that Ryan has  
7           turned his life around and that Ryan is  
8           responsible. Ryan should continue to operate.  
9           Thank you.

10           MR. ALLEN: One last question I have  
11           is with regards to the first four OWIs. If we  
12           look at the Federal Rules of Evidence, there's a  
13           general rule that you can only look back nine  
14           years from a date of a hearing to the date of  
15           conviction to use that to impeach a witness. Do  
16           either of you believe that the passage of time  
17           between now and the first four OWIs is a factor  
18           that weighs for or against the revocation? And  
19           this time I'll go to Mr. Petri first.

20           MR. PETRI: Let me look at the  
21           complaint here.

22           MR. ALLEN: Maybe I can simplify that  
23           awkward question for you, Mr. Petri. For the  
24           first four OWIs, has too much time elapsed where  
25           the Committee shouldn't consider those?

1 MR. PETRI: Well, I think the  
2 Committee can consider them even if they're  
3 20 years ago or 30 years ago. It probably  
4 wouldn't have very great effect, but it should  
5 have some effect. So again, it's arbitrary. I  
6 mean, most of the bad things that happened to  
7 him happened approximately a decade ago until  
8 this last incident, this last incident. He  
9 didn't know it was .02 was the breaking point.  
10 He just didn't know, which is no excuse.

11 MR. ALLEN: Attorney Zilavy, how much  
12 weight should the Committee provide on those  
13 first four convictions?

14 MR. PETRI: I'm sorry, Mr. Allen.  
15 What did you say?

16 MR. ALLEN: I was asking Attorney  
17 Zilavy how much weight the Committee should  
18 place on the first four OWI convictions.

19 MR. PETRI: Oh.

20 MS. ZILAVY: Well, that's a difficult  
21 question. And honestly, I don't know how much  
22 weight. I think the Committee does need to  
23 consider them. I will say had this felony  
24 offense been back in 2005 and had he had nothing  
25 since, we wouldn't be here. But again, my

1 concern is that the fifth was in the last couple  
2 of years, and I think the Committee has to look  
3 at the totality of the circumstances and give  
4 the priors whatever weight they feel  
5 appropriate.

6 MR. ALLEN: That's all I have.

7 THE WITNESS: Do I get a chance to  
8 address the question?

9 CHAIRPERSON LANDGRAF: No. Well, it  
10 seems to me that we've concluded your case, and  
11 hers is in. We had some questions back and  
12 forth, if you're comfortable on that, so I think  
13 it's appropriate to move to the next portion,  
14 which is that we have heard all of the evidence  
15 in your case.

16 The Committee is now in a position to  
17 vote whether to go into a closed session  
18 pursuant to Wisconsin Statute 1985(1)(a) to  
19 deliberate. Upon completion of that  
20 deliberation, the Committee will reconvene in  
21 open session and at that time announce its  
22 findings and determination. Any member of  
23 the -- does any member of the Committee move to  
24 go into closed session?

25 MR. DONNELLY: So moved.

1 CHAIRPERSON LANDGRAF: We have a  
2 motion. And a second?

3 MR. SKIDMORE: On a point of order, I  
4 think we have to read the entire statute, as I  
5 recall.

6 MR. ALLEN: You just have to cite the  
7 statute, not read it.

8 MR. SKIDMORE: That's what I thought.  
9 Should I do that?

10 MR. ALLEN: Yes.

11 MR. SKIDMORE: Mr. Chair, I move that  
12 the ALRC committee go into closed session  
13 pursuant to Wisconsin Statute 1985(1)(g) to  
14 confer with legal counsel for the purpose of  
15 rendering oral or written legal advice  
16 concerning any legal strategy to be adopted by  
17 the ALRC with respect to litigation it is or is  
18 likely to become involved in and may from time  
19 time meet in closed session pursuant to  
20 1985(1)(a) to deliberate concerning the case  
21 that is the subject of this quasi-judicial  
22 hearing before the ALRC. The ALRC may reconvene  
23 in open session following any such closed  
24 session.

25 MR. OSPINA: I second.

1 CHAIRPERSON LANDGRAF: Okay. We have  
2 a motion and a second. Will the clerk call the  
3 roll?

4 MS. HAAR: Ospina?

5 MR. OSPINA: Aye.

6 MS. HAAR: Donnelley?

7 MR. DONNELLY: Aye.

8 MS. HAAR: Landgraf?

9 CHAIRPERSON LANDGRAF: Aye.

10 MS. HAAG: Skidmore?

11 MR. SKIDMORE: Aye.

12 CHAIRPERSON LANDGRAF: Four ayes,  
13 and the motion passes, so pursuant to  
14 Section 1985(1)(a) of the Wisconsin Statutes,  
15 this committee will now convene in closed  
16 session for the purposes of deliberating over  
17 the case which is before us. What I would like  
18 to do is ask all of you who are not part of the  
19 Committee or our immediate staff to step out,  
20 and we'll let you know when we're done  
21 deliberating, and we'll reconvene with a  
22 decision. Thank you for your time.

23 (Committee convenes in closed session)

24 (6:54 p.m. to 7:49 p.m.)

25 CHAIRPERSON LANDGRAF: Okay. Do we

1 have a motion to come back into open session?

2 MR. DONNELLY: So moved.

3 MR. OSPINA: Second.

4 CHAIRPERSON LANDGRAF: All those in  
5 favor -- or are we back to open session?

6 MR. ALLEN: You need the clerk.

7 (Discussion off the record)

8 CHAIRPERSON LANDGRAF: In your  
9 absence, we voted to come back into open  
10 session.

11 MS. HAAR: Okay.

12 CHAIRPERSON: So we are now in open  
13 session.

14 MR. DONNELLY: Do you we need a roll  
15 call?

16 CHAIRPERSON LANDGRAF: Yeah, why don't  
17 you do a roll call.

18 MS. HAAR: Ospina?

19 MR. OSPINA: Present.

20 MS. HAAR: Donnelley?

21 MR. DONNELLY: Present.

22 MS. HAAR: Landgraf?

23 CHAIRMAN LANDGRAF: Present.

24 MS. HAAR: Skidmore?

25 MR. SKIDMORE: Here.

1 MS. HAAG: All present.

2 CHAIRPERSON LANDGRAF: Okay. The  
3 Subcommittee is back into open session. We have  
4 deliberated over the material put in front of  
5 us, and we've come up with a motion to recommend  
6 to the ALRC at its next meeting. Attorney Allen  
7 will read that to everyone.

8 MR. ALLEN: Upon an unanimous vote,  
9 the Subcommittee finds that the fifth offense  
10 OWI is substantially related to the licensed  
11 activity and is therefore disqualifying. The  
12 Committee makes no finding on whether the  
13 defendant's record qualifies him as a habitual  
14 law offender. The Committee recommends  
15 revocation.

16 CHAIRPERSON LANDGRAF: So that  
17 recommendation of the Subcommittee will appear  
18 on an upcoming meeting of the ALRC, at which  
19 time the ALRC will then take up discussion of  
20 that subcommittee recommendation and make a  
21 determination on what it will do with regard to  
22 sending it on to the Common Council. Is there  
23 any other business that should come before the  
24 Subcommittee?

25 MR. ALLEN: I have nothing.



1 MR. TRPKOSH: Can you state the date  
2 of that?

3 MR. ALLEN: The next ALRC will be  
4 October 19th. Depending upon what they do with  
5 it, there will be a recommendation to the Common  
6 Council.

7 MR. TRPKOSH: October 19th, thank you,  
8 just to make sure there's clear communication.

9 CHAIRPERSON LANDGRAF: And that would  
10 be the November, the early November Common  
11 Council meeting. Okay. With no further  
12 business to come before the Subcommittee, do we  
13 have a motion to adjourn?

14 MR. OSPINA: Move to adjourn.

15 MR. DONNELLY: Second.

16 CHAIRPERSON LANDGRAF: Okay. All  
17 those in favor say aye?

18 (All subcommittee members vote in the affirmative)

19 CHAIRPERSON LANDGRAF: We are  
20 officially adjourned. Thank you all.

21 (7:53 p.m.)

22

23

24

25

\* \* \* \* \*

CITY OF MADISON,

Complainant,

-vs-

REVOCATION  
OF CLASS "B" COMBINATION  
ALCOHOL BEVERAGE LICENSE

RB SCHULTZY, LLC  
d/b/a Baldwin Street Grille  
1304 E. Washington Avenue  
Madison, WI 53703,

Respondent.

\* \* \* \* \*

C E R T I F I C A T E

I, SANDRA L. McDONALD, do hereby certify that as  
the duly-appointed shorthand reporter, I took in  
shorthand the proceedings had in the above-entitled  
matter on the 5th day of October, 2016, and that the  
attached is a true and correct transcription of the  
proceedings so taken.

In witness whereof, I have hereunto set my  
hand and affixed my seal of office this 18th day of  
October, 2016.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission Expires 10/05/18