

1

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT
Docket No. 18-ALJ-17-0005-CC

Five Points Roost, LLC, d/b/a)
Five Points Roost,)
)
 Petitioners,)
)
v.)
)
South Carolina Department of)
Revenue,)
)
 Respondents,)
)
and)
)
Thomas R. Gottshall and)
April C. Lucas,)
)
 Intervenors,)
)
)

ADMINISTRATIVE HEARING

Tuesday, February 20, 2018
10:20 a.m. - 5:20 p.m.

AND

Wednesday, February 21, 2018
1:01 p.m. - 5:30 p.m.

The hearing before the Honorable Deborah Brooks Durden, was taken at the Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, South Carolina, on the 20th day of February, 2018 before Roderick S. Fitzgerald, Court Reporter and Notary



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

Public in and for the State of South Carolina.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

APPEARANCES

Elisabeth W. Shields, Esquire

Patrick McCabe, Esquire

South Carolina Department of Revenue
Office of General Counsel for Litigation
300A Outlet Pointe Boulevard
Post Office Box 12265 (29211)
Columbia, South Carolina 29210
Attorney for the Respondents

Michael H. Montgomery, Esquire

Montgomery Willard, LLC
1002 Calhoun Street
Post Office Box 11886 (29211)
Columbia, South Carolina 29201
Attorney for the Petitioners

Richard A. Harpootlian, Esquire

Harpootlian Law Firm
1410 Laurel Street
Post Office Box 1090 (29202)
Columbia, South Carolina 29201

INDEX

PAGE

DAY ONE - Tuesday, February 20, 2018

CALL TO ORDER:

THE COURT. 5

OPENING STATEMENTS:

MR. MONTGOMERY. 7
MS. SHIELDS. 12
MR. HARPOOTLIAN. 14

MR. BLAND:

MR. MONTGOMERY. DIRECT EXAMINATION. 28
MR. HARPOOTLIAN. CROSS-EXAMINATION. 59
MS. SHIELDS. . . . CROSS-EXAMINATION. 141

MR. RUONALA:

MR. MONTGOMERY. DIRECT EXAMINATION. 148
MR. HARPOOTLIAN. CROSS-EXAMINATION. 204
MS. SHIELDS. . . . CROSS-EXAMINATION. 233
MR. MONTGOMERY. REDIRECT EXAMINATION. 235



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

CHIEF HOLBROOK:

MR. HARPOOTLIAN. DIRECT EXAMINATION.	240
MR. MONTGOMERY. CROSS-EXAMINATION.	251
MS. SHIELDS. . . . CROSS-EXAMINATION.	265

MS. EDWARDS:

MR. HARPOOTLIAN. DIRECT EXAMINATION.	271
MR. MONTGOMERY. CROSS-EXAMINATION.	290
MS. SHIELDS. . . . CROSS-EXAMINATION.	300

DAY TWO - Wednesday, February 21, 2018**MR. WISER:**

MR. HARPOOTLIAN. DIRECT EXAMINATION.	301
MR. MONTGOMERY. CROSS-EXAMINATION.	326
MR. HARPOOTLIAN RE-DIRECT EXAMINATION.	388

MS. LUCAS:

MR. HARPOOTLIAN. DIRECT EXAMINATION.	389
MR. MONTGOMERY. CROSS-EXAMINATION.	424
MS. SHIELDS. . . . CROSS-EXAMINATION.	440

MR. LAMB:

MR. HARPOOTLIAN. DIRECT EXAMINATION.	441
MR. MONTGOMERY. CROSS-EXAMINATION.	461

MR. GOTTSALL:

MR. HARPOOTLIAN. DIRECT EXAMINATION.	467
MR. MONTGOMERY. CROSS-EXAMINATION.	493

CLOSING STATEMENTS:

MS. SHIELDS.	511
Certificate	517



EXHIBITS

(Respondent's Exhibit Number 1 was marked prior to the hearing and admitted as follows:)

Respondent's Exhibit Number 1 5,6
(DOR File)

Intervenor's Exhibit Number 1 133
(Original Deposition of Mr. Stephen Bland)

Intervenor's Exhibit Number 2 311
(Time For Change Report)

Intervenor's Exhibit Number 3 373, 374
(List of References)

Intervenor's Exhibit Number 4 397, 398, 430
(Map)

Intervenor's Exhibit Number 5 408
(Map From City of Columbia's Website)

Intervenor's Exhibit Number 6 444
(Google Maps Document)

Petitioner's Exhibit Number 1 176
(Operating Agreement)

Petitioner's Exhibit Number 2 200, 201
(Option Purchase Agreement)

Petitioner's Exhibit Number 3 239
(Pour House Lease)

Petitioner's Exhibit Number 4 430
(Google map of 911 Laurens and 800 Harden Street)

(The original Exhibits were retained by The Court.)

STIPULATIONS

It is stipulated and agreed that this hearing is being taken pursuant to the rules of the Administrative Law Court and the South Carolina Rules of Civil Procedure.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 (Respondent's Exhibit Number 1 was marked prior to
2 the hearing.)

3 CALL TO ORDER:

4 **THE COURT:** We are here this morning for a hearing
5 in the matter of Five Points Roost, LLC, doing
6 business as Five Points Roost, Petitioner,
7 versus the South Carolina Department of
8 Revenue, Respondent, and Thomas R. Gottshall
9 and April C. Lucas, Intervenors. We have Mr.
10 Montgomery, Ms. Shields ---

11 **MS. SHIELDS:** Good morning.

12 **THE COURT:** --- and Mr. Harpootlian --

13 **MR. HARPOOTLIAN:** Morning, Your Honor.

14 **THE COURT:** --- presenting. And we have -- I'll
15 kind of call the roll. I got the -- your
16 document this morning withdrawing some of the
17 protestants. My -- by my record we still have
18 April Lucas --

19 **MS. LUCAS:** Here.

20 **THE COURT:** --- James McDaniel.

21 **MR. DANIEL:** James Daniel, here.

22 **THE COURT:** I'm sorry, James M. Daniel, I got on the
23 wrong glasses. Marilyn Gartley.

24 **MS. GARTLEY:** Here, Your Honor.

25 **THE COURT:** All right. And Thomas Gottshall.



1 MR. GOTTSHALL: I'm here, Your Honor.

2 THE COURT: All right.

3 MR. GOTTSHALL: Thank you.

4 THE COURT: Do we have -- other than the motion in
5 limine which we've already discussed, do we
6 have any other preliminary matters to take up
7 before we begin with opening statements?

8 MS. SHIELDS: Your Honor, as a preliminary matter,
9 we would just like to introduce what has been
10 marked as Respondent's Exhibit 1, which is
11 DOR's file without any objections or with the
12 consent of Mr. Montgomery and Mr. Harpootlian.

13 THE COURT: Okay.

14 MR. MONTGOMERY: That is without objection, Your
15 Honor.

16 MR. HARPOOTLIAN: No objection, Your Honor.

17 THE COURT: Respondent's 1 is admitted.

18 (Respondent's Exhibit Number 1 was admitted at this
19 time.)

20 THE COURT: Are there any other documents that y'all
21 would like to admit by stipulation as to their
22 admissibility?

23 MR. HARPOOTLIAN: Not -- not for the, what am I, the
24 ---

25 THE COURT: Intervenors.



1 MR. HARPOOTLIAN: --- Intervenor, okay.

2 MR. MONTGOMERY: None from the Petitioner, Your
3 Honor.

4 THE COURT: All right. Respondent's 1 is admitted
5 if you'd like to bring that up.

6 MS. SHIELDS: Thank you, Your Honor.

7 THE COURT: Thank you. All right. Mr. Montgomery,
8 would you like to begin with an opening
9 statement?

10 MR. MONTGOMERY: Yes, Your Honor. May it please the
11 court.

12 OPENING STATEMENT BY MR. MONTGOMERY:

13 MR. MONTGOMERY: Your Honor, I'm Mike Montgomery as
14 the Court is aware. It is my privilege to
15 represent Five Points Roost, LLC, which is the
16 applicant for this On-Premise and Beer and Wine
17 On-Premise License for a location at 800 Harden
18 Street in Columbia. With me at the counsel
19 table are Mr. Stephen Bland, who is one of the
20 applicants and the manager of the location, Mr.
21 Adam Ruonala, who is also an owner and one of
22 the applicants in the -- in the application.
23 Also, behind me is Christy Bradley who
24 hopefully will help me keep my documents
25 straight today, which is always a challenge.



1 Your Honor, this is I think, a case that you
2 will find to be interesting and somewhat at the
3 end you may conclude as I have that my clients
4 have been caught in a little bit of maelstrom
5 that involves not their suitability or the
6 suitability of the location, but desires
7 certain community members to bring about a
8 change in -- in the location and the way Five
9 Points works, not by targeting the offenders,
10 but by looking at every opportunity they can to
11 cause a change in business. The simple fact is
12 I think you will hear that this location and
13 these operators meet the criteria that the
14 Department Of Revenue has articulated and which
15 is required by the statute in the regulations
16 and that we're here today in this contested
17 case because of public protest. If you had the
18 opportunity to review the public protest,
19 largely they were -- included news articles and
20 complaints about issues emanating from the
21 prior location, prior operator of this
22 location. What they don't mention is the facts
23 that relate to the suitability of the location
24 and particularly to the efforts of these young
25 men to make this a better place and a place



1 that will solve and work to solve many of the
2 concerns raised by the community. You're gonna
3 hear about Mr. Bland and you're gonna hear
4 about Mr. Ruonala, but what's most important
5 that you are going to hear is about the manner
6 in which they have undertaken this application
7 and the manner in which they have undertaken to
8 operate the Five Points Roost since they took
9 over and commenced operations. You're going to
10 hear that prior to opening they attended
11 meetings in the community to try to seek out
12 input from community members to ascertain what
13 the community thought had been going wrong and
14 what they could do to improve it. You're going
15 to hear that they have tried to work with the
16 community with regard to a desire that the
17 community has to change the hours of operations
18 such that bars are not open past 2:00 o'clock
19 in the area. And they have not only worked to
20 that, but they've actually attended a city
21 meeting in support of that change to the
22 ordinance. You will hear that they have
23 increased security, they've put camera systems
24 in their establishment both in and out to
25 monitor what goes on on the street and at the

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 door. You will also hear that they have an
2 extensive program to try to eliminate underage
3 drinking in the area including black light
4 checks of all IDs and they also purchased an
5 expensive ID scanner which you will hear about,
6 which not only validates ID cards from 50
7 states and Canada as well as military ID cards,
8 but also has features like pass back protection
9 so that someone coming in -- a patron can't
10 come in and pass an ID to another person and
11 have them use it. So they've really made
12 efforts in those areas. Among other things
13 that they've done, they have committed to and
14 they have no specials on beverages, they
15 operate on one standard price. They have also
16 worked very hard to increase the sales of the
17 food in the establishments, including
18 partnering with other restaurants in the area
19 to bring in semi-prepared food that they
20 complete the preparation of and sell in their
21 location. They have opened that location for
22 lunch on three days a week, which is primarily
23 a food sales item. And they've tried to do a
24 number of other things to reach out, improve
25 and operate in a matter that the community can



1 be proud of and that would set a standard for
2 the community. They're young men who both have
3 an extensive desire to be successful in
4 business and are willing to work hard and they
5 have a great deal at risk which you're gonna
6 hear about as well. The simple fact is, Judge,
7 that they meet the criteria and I think that
8 after you hear this and you hear what they're
9 doing you'll find that both -- they're both
10 suitable applicants and that this is a suitable
11 location. And again, I would emphasize that my
12 clients have sympathy for some of the problems
13 that have been mentioned in the community, but
14 I think that when you hear the evidence, Your
15 Honor, you're going to hear that there is
16 dearth of any evidence to tie some of these
17 problems and complaints to this location as
18 it's operating. I think what you'll also
19 probably take note of from your own experience
20 and from the record that this is a location
21 that has been licensed for many, many years to
22 provide on-premises consumption of alcohol,
23 beer and wine and probably more than 40, and
24 it's been through several ownerships and
25 several changes, but it's also always been

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 there at that location on the corner of Greene
2 and Harden Street. And my clients have tried
3 to, as well, pull some of the ambiance of that
4 to bring it back into the community. So I
5 think you're gonna hear those things, Your
6 Honor, and our belief is that when you hear all
7 the evidence and have an opportunity to judge
8 the evidence, the demeanor of the witnesses and
9 the facts surrounding this location, where it
10 is, what it is and how it's operated, that you
11 will find that this is a suitable location and
12 that these are suitable applicants and that the
13 license should be issued. I look forward to
14 working with you today and thank you for your
15 patience.

16 **THE COURT:** Thank you. All right. Ms. Shields.

17 **OPENING STATEMENT BY MS. SHIELDS:**

18 **MS. SHIELDS:** Good morning, Your Honor, may it
19 please the Court. I'm Elizabeth Shields and I
20 along with my co-counsel, Patrick McCabe, are
21 here on behalf of the South Carolina Department
22 Of Revenue. As Your Honor is aware from Mr.
23 Montgomery's opening statement, the Department
24 received applications from Mr. Montgomery's
25 clients for on-premises consumption for beer



1 and wine and restaurant -- and a restaurant
2 liquor by the drink license at their proposed
3 location. Based on a number of public protests
4 that were submitted to the Department, the
5 Department issue a department determination
6 earlier this year denying the applications
7 based on this public protest, but also based on
8 failure to meet building and restaurant
9 requirements. That was due to the fact that
10 SLED was unable to perform a final inspection
11 because they were undergoing -- the proposed
12 location was undergoing renovations at the
13 time. Since then it is my understanding that
14 SLED has gone back out and conducted a final
15 inspection and SLED has determined that they --
16 that the proposed location meets the building
17 and restaurant requirements. So as we stated
18 in our department determination, we've -- we're
19 going to go ahead and withdraw those -- those
20 -- or those grounds for denial. So the only
21 issue from the department determination are the
22 public protests; however, there has been some
23 discovery that has been conducted since the
24 department's determination including a
25 deposition of one of the applicants, and based



1 on the testimony provided in that deposition
2 it's the department's belief that the evidence
3 presented today may indicate some principles
4 regarding this proposed location that were not
5 originally disclosed on the application. If
6 that is the case and if that -- if the court
7 finds that there are undisclosed principals in
8 this matter we would just ask that the matter
9 be remanded to the Department Of Revenue so
10 that we can investigate into these potentially
11 undisclosed principals. Thank you, Your Honor.

12 **THE COURT:** All right. Mr. Harpootlian.

13 **OPENING STATEMENT BY MR. HARPOOTLIAN:**

14 **MR. HARPOOTLIAN:** Please the Court, Your Honor. May
15 I go to the podium?

16 **THE COURT:** You may.

17 **MR. HARPOOTLIAN:** It's hard for me to do it from
18 right here in a semi-seated position. Your
19 Honor, I want to thank you for being here
20 today. I know it's your job, but you've been
21 most gracious in accommodating both Mr.
22 Montgomery and I and the DOR. And I want to
23 warn the court -- not warn, but perhaps caution
24 the Court, this may not be your normal ALJ
25 hearing on a license for an establishment to



1 serve alcohol. And I apologize to the Court at
2 the outset if I belabor some issues or you
3 think I'm over-focused on issues, but I've got
4 to tell you, this is a new world to me, I
5 haven't been involved in an alcohol license
6 issue since I was a solicitor back in the '90s
7 and Mr. Gasser over here was my deputy. During
8 that time I learned it because I indicted two
9 out of the three ABC Commissioners for public
10 corruption, convicted them, but I learned a lot
11 about how people got alcohol licenses back
12 then. Thank God that process no longer exists.
13 But what has come about and we learned in
14 discovery -- I did a deposition in this case of
15 Mr. Bland right here who is the manager, he is
16 the guy -- the applicant, he is the guy running
17 it. And here's a couple of things that sort of
18 shocked me. One of -- and we're going to show
19 you a chart, one of 19 bars in Five Points,
20 they've been opened since December, and in that
21 period of time they're generating a \$20,000 a
22 week in revenue, which would be a million
23 dollars a year, a million dollars a year, one
24 of 19 bars, that's number one. Number two,
25 that the -- and this is -- you know, I -- I

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 hesitate to bore testimony Court with reading
2 the South Carolina Constitution, but I'm older
3 than most of you and I remember when it was
4 illegal to get liquor by the drink, and so in
5 1972 the Constitution was amended to allow it
6 and that took a vote of the people and action
7 by the legislature. And what it says here is,
8 However, licenses may be granted, that is to
9 sell liquor by the -- for on -- on -- by
10 liquor I mean not beer, not wine, to sell and
11 consume alcoholic liquors and beverages on the
12 premises of a business which engage primarily
13 and substantially in the preparation and
14 serving of meals or furnishing lodging. So
15 it's gotta be a restaurant there's no such
16 thing under the Constitution or the statute as
17 a bar. People talk about bars in Five Points,
18 all that ought to be down there is restaurants.
19 And -- and, of course, we have some
20 interpretation of that provision, actually, it
21 hasn't been confronted by our courts since 1979
22 when Justice Ness writing for the majority, a
23 unanimous majority, said this, Bonafide engage
24 primarily -- and by the way, he's quoting the
25 statute that applied this, which is -- which



1 back then was 61-5-24(A) and it says, The
2 business, to -- to get one of these licenses,
3 The business is bonafide engaged primarily and
4 substantially in the preparation and serving of
5 meals or furnishing of lodging, and I'm quoting
6 Brunswick Capital Lanes versus South Carolina
7 Alcohol Beverage Control Commission 273-SC-782,
8 and I have a copy of this for you, Your Honor.
9 Bonafide engaged primarily and substantially in
10 the preparation and serving of meals shall
11 refer only to such a business which has been
12 issued a Class A Restaurant License prior to
13 issuance of the license under this article.
14 And at the time it was seating for not less
15 than 40 persons simultaneously at tables for
16 service of meals. Quoting, the word primarily
17 means of first importance or principally.
18 That's -- he quotes Webster's Third New
19 International Dictionary Words And Phrases,
20 Respondent contends the fact they propose --
21 possesses a Class A Restaurant Licenses and
22 seating capacity for 52 qualifies for a mini
23 bottle license, back then, Your Honor, they had
24 to have mini bottles, not pour it by the drink,
25 same statute today except it doesn't say mini



1 bottles, this is not the determinative factor.
2 Rather, the legislature stated the critical
3 test is whether the business is engaged, quote,
4 primarily and substantially in the preparation
5 and serving of meals. We conclude a business
6 which attributes only 10 percent of it's gross
7 revenues to food preparation sale does not
8 fulfill the, quote, primary and, quote,
9 substantial requirement of the statute.
10 Accordingly, the respondent should not be
11 granted a mini bittle - mini bottle license.
12 Now, Your Honor, in this case we've already
13 taken the deposition of Mr. Bland and he'll
14 take the stand again this morning. His
15 testimony is in the months they've been opened
16 they've been -- their -- they -- they're
17 hitting about 5 percent of their total revenue
18 is food and they hope to get it up to 10
19 percent. Not only that, the -- some of that --
20 he indicts they have hot dogs, they have a
21 microwave, they have a refrigerator and a
22 cutting board and an ice machine. Not only
23 that but the -- they -- he admits and says, you
24 know, they're bringing in pizza which is
25 prepared elsewhere and warming it up. So that



1 shouldn't even count based on the regulations
2 in the statute, so it's probably less than 5
3 percent. And why do we have this, because the
4 people of the state and the legislature decided
5 they didn't want bars serving liquor by the
6 drink. They wanted it only in places where
7 primarily they were serving food. He's
8 admitted based on this case, the statutes, the
9 regulations by the DOR that it's not a
10 restaurant, it's not even close to being a
11 restaurant, only he writes that on his
12 application. And again, Justice Ness defines
13 what primarily is. I suspect primarily is 51
14 percent. We don't have to reach that here
15 today because he said it's 5 -- what they're
16 doing is 5 percent. And, you know, here's the
17 problem, the problem is DOR comes in and sees
18 if they've got a stove, and apparently a
19 microwave is a stove. You know, I'm not sure
20 I would agree with that, but that's not what
21 we're going to deal with today. They come in
22 and say because they have a refrigerator --
23 it's supposed to have 7 cubic feet, I don't see
24 that measured anywhere, but that's the issue
25 here today. Food preparation, separate area,



1 they have a cutting board and an ice machine,
2 whether or not that's a kitchen that complies
3 with the statute and the regs, that's not the
4 issue here today. This is a liquor house.
5 These are people making a million dollars a
6 year pouring liquor and -- and, you know, I
7 understand there's some dispute about whether
8 it's to underage kids or not, we're going to
9 have some witnesses about that. I understand
10 that the -- that the -- the issue is not
11 whether they're a attractive nuisance for kids
12 to come down from the university and get drunk.
13 The question is, do they meet the bare minimum
14 of statute and the Constitution. And, Your
15 Honor, in addition to that we're going to have
16 evidence for you, and I quote to you from an
17 ALJ case which outlined it in my opinion better
18 than I could try and to say it that is -- and
19 this is a case called Zodiac Private Club
20 versus South Carolina Department Of Revenue and
21 I think some of these criteria are contained in
22 the Can case which we went over this morning,
23 but it says, Additional consideration can be
24 given to the impact, the issuance of the permit
25 or license will have on law enforcement.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Quoting the Fowler case, Evidence of the
2 granting of a permit will place a strain upon
3 police to adequately protect the community,
4 must be weighed. Denials appropriate where the
5 public area surrounding proposed location have
6 been the source of constant law enforcement
7 problems or significant problems with public
8 intoxication. You're going to hear testimony
9 about that, you're going to hear the Chief of
10 Police say that it has a deleterious affect on
11 the police, that that location previous to
12 those folks was a magnet for crime and a magnet
13 for underage drinking. And what they also say
14 is, It is relevant whether the locations near
15 other locations that have been either a
16 conscious source of law enforcement problems or
17 locations where young people congregate and
18 loiter. And another pertinent factor is
19 whether the police have been summoned to the
20 scene on prior occasions when licensed to
21 another party, those are all factors. And I
22 believe the Chief of Police, Holbrook, will
23 check every one of those boxes. And I believe
24 that these folks have beyond -- I mean, and I
25 -- you know, I'm not going to doubt their

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 sincere efforts to screen out underage people
2 or to do all these other things. So those are
3 statutory issues and problems they have with
4 you granting the license to them, 5 percent
5 food, not 51 percent and -- and the question is
6 not what they may have three years from now,
7 what do they have now? You know, I initially
8 was opposed to this temporary license thing,
9 it's great because they're open, they're
10 running, they've given them a temporary license
11 and then you have a 90 day period to figure out
12 what's going on. What's going on is they're
13 selling a lot of liquor and no food. The last
14 point I make is this and maybe you can figure
15 it out I'm -- I'm not a great business lawyer,
16 but -- but you're going to see, and it's in the
17 document already filed, that -- and as I
18 understand Mr. Bland's testimony, that the
19 majority 60 something percent of the entity
20 that runs -- that owns Five Points Roost, LLC,
21 is owned by -- is Mr -- where's Mr. Wells, oh,
22 there he is right there (indicating), Mr.
23 Wells, a former owner's mother and -- and if
24 this sounds confusing to you, I encourage you
25 to ask the witnesses whether it's Mr. Ruonala



1 or whether it's Mr. Bland, and Mr. Ruonala owns
2 a very small portion, Mr. Bland owns 25 percent
3 and they gave Mr. Wells' mother 62 percent, and
4 she put, according to Mr. Bland, little or no
5 money in. It's valued at \$313,000. He said
6 she gets that because Mr. Wells owed her that
7 \$300,000, and so she gets that in the new
8 entity because -- to relieve Mr. Wells of that
9 \$300,000 debt. In addition, Mr. Bland's equity
10 of \$125,000 is predicated on putting no money
11 in and he testified that that was to compensate
12 him for \$100,000 in money that Mr. Wells owed
13 them from the Pour House that he had earned and
14 never been paid for and another -- the rest of
15 it was sweat equity he -- he intended into the
16 business in the future. The last sort of piece
17 of that is they paid Mr. Wells \$150,000 for the
18 assets of the Pour House. Now, let me -- let
19 me explain something. The Pour House -- the
20 police department had served a notice that they
21 were going to have the Pour House declared a
22 nuisance, and Chief Holbrook will testify about
23 that. Just prior to going forward on that Mr.
24 Wells turned in his business license and his
25 alcohol license, yet Mr. Bland testifies that



1 \$150,000 asset purchase was also to buy the
2 license and I think that's inconsistent and
3 contrary to the law and Mr -- and Mr. Wells
4 didn't have a license, as matter of fact, he
5 didn't even have a lease. All he had was some
6 -- some tables and chairs and other -- other
7 implements that were left in the Pour House
8 when he moved out so what do we have here?
9 We've got Mr. Wells owed \$150,000 for the
10 license and other unnamed -- they -- he
11 couldn't remember what assets, you've got Mr.
12 Wells' mother getting over \$300,000 in equity,
13 62 percent of this entity for money he owed
14 her. I don't know why they feel obligated to
15 pay her a dime. And then, sort of the crowning
16 point, is that they then signed the -- the
17 equity that -- that Mr. Bland has in this, his
18 \$125,000, the bulk of that is money that he
19 says Wells owes him. Now, I'm no business
20 lawyer, that's not what I do with my life, but
21 this sounds to me like Five Points Roost, LLC,
22 is going to be, based on the distribution, 60
23 percent of it's going to go to his mother to
24 pay back a debt he owed her, the rest of it is
25 to compensate Mr. Bland for the money that he



1 owed him and then there's a Note by Five Points
2 Roost to Mr. Wells for assets and the license.
3 So the money coming in appears to me either
4 it's going into Mr. Wells' pocket or to relieve
5 a debt, if there ever was such a debt, to his
6 mother. Now, understand she was also the
7 primary investor in the Pour House. She lives
8 in Massachusetts. She's not here today and
9 beyond the subpoena power of this Court I think
10 we have to enforce it and we only have 30 days
11 to do all of that. So this a -- this is a --
12 a entity that's generating a million dollars a
13 year in serving alcohol, I suspect although
14 they won't admit it, the pattern -- and the
15 Chief is going to testify to this, to underage
16 kids with a -- the most convoluted corporate
17 structure I can -- I've ever seen and I've done
18 a lot of prosecution of organized crime. This
19 has -- this has got something going on. I need
20 somebody to explain this to me. And -- and the
21 last point is this, they're not a restaurant.
22 They are a bar, they are not serving food, and
23 I don't care what they plan to do in the
24 future. The question is, what are they doing
25 today? And that's the problem with DOR process,



1 oh, you got a kitchen, you got 40 chairs, you
2 got tables, you could serve food. And no one
3 ever inspects -- they got 40 hot dogs sitting
4 in the refrigerator. Really? That's -- that's
5 what the constitution meant? That's what Judge
6 Ness meant? I don't think so. So as this
7 develops, now, maybe -- maybe they've gone over
8 their books again, maybe that goes up to 10
9 percent, it doesn't go to 20, it doesn't go to
10 50, and if they -- Your Honor, if they
11 represent to you it's more than that, I would
12 ask Your Honor to order them to bring their
13 books here and their accountant here and put
14 them under oath, because I suspect that -- that
15 they're -- that they're not actually leveling
16 with the Court. Now, this is of prime
17 importance to not only the people that are here
18 as protestors because they -- what happens when
19 you have a place whose primary purpose is to
20 pour liquor down the gullets of underage kids
21 is you have all the things that you're going to
22 hear about these people, urinating in their
23 yard, drunk running up the street, smashing
24 stuff. That's what kids do sometimes sober,
25 but pour a little liquor down their throats and



1 -- and, Your Honor, they -- they get really
2 rambunctious, and this is a neighborhood.
3 You're gonna hear from a lady who had a store
4 called Gibson's in Five Points back in the '70s
5 and '80s, I used to eat breakfast there, gone.
6 All the retail is going and all that is coming
7 is these bars because it is so lucrative when
8 you don't have to serve meals. And again, if
9 you went through -- he's paid \$6,400 a month in
10 rent and you go through the cost of everything
11 else, and you're going to hear from him when he
12 opened, all these investors, he didn't have
13 enough money to pay for the liquor. The liquor
14 wholesaler had to front him the -- he took a
15 bad check for -- the liquor wholesaler did,
16 which is I believe also against the law in the
17 regulations. Now, you know, I think DOR has to
18 deal with a lot of these, but part of the fault
19 here, it has to be born by the regulators who
20 have not ascertained that they really are
21 serving food, if they are taking postdated
22 checks from liquor distributors, and these guys
23 are -- this is -- and -- and again, this has
24 been the way it's been, but nobody has asked
25 these questions before and I'm asking them

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 today, and thank you. Again, this may get a
2 little protracted and maybe even a little
3 heated. I'm not sure that's the normal ---

4 **THE COURT:** Well, we'll try to keep it civil ---

5 **MR. HARPOOTLIAN:** Civil? Your Honor, I would with
6 your guidance. Thank you.

7 **THE COURT:** All right. Thank you. All right. Mr.
8 Montgomery.

9 **MR. MONTGOMERY:** Your Honor, at this time we call
10 Mr. Stephen Bland.

11 **THE COURT:** Mr. Bland, if you would step up here,
12 the court reporter will swear you in.

13 **STEPHEN BLAND,** having been duly sworn, testifies as
14 follows:

15 **MR. BLAND - DIRECT EXAMINATION BY MR. MONTGOMERY:**

16 Q: Mr. Bland, how are you today?

17 A: Good.

18 Q: And what is your current local address?

19 A: That is 1085 Shop Road.

20 Q: And that's here in Columbia?

21 A: Yes, sir.

22 Q: And what's your permanent address?

23 A: That is 3405 Oxfordshire Lane and that is
24 Charleston.

25 Q: And what's your date of birth, Steve?



- 1 A: February 18th, 1992.
- 2 Q: How long have you lived in South Carolina?
- 3 A: I was born and raised in Charleston and have
4 lived in South Carolina my whole life.
- 5 Q: Okay. What's your educational background,
6 Steve?
- 7 A: I have a double major in Business Marketing and
8 Business Management with a focus in
9 Entrepreneurship as well as a minor in
10 Philosophy.
- 11 Q: Okay. Where did you receive that degree?
- 12 A: From the University of South Carolina. Darla
13 Moore School of Business.
- 14 Q: And when did you receive that degree?
- 15 A: That was December of 2014.
- 16 Q: Okay. And when you received that degree, did
17 you receive any honors with that degree?
- 18 A: Yes, sir. I received Magna Cum Laude.
- 19 Q: Okay. And, Stephen, what is your current role
20 with Five Points Roost, LLC?
- 21 A: I am the manager of the company.
- 22 Q: Okay. And as the manager what are your duties
23 and responsibilities?
- 24 A: It is all day-to-day operations, hiring and
25 firing, payroll, taxes, inventory, basically

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 all of the day-to-day operations.

2 Q: Okay. And as a limited liability company who
3 are the members of Five Points Roost?

4 A: Five Points Roost, LLC is owned by three other
5 LLCs as disclosed in the application to the
6 DOR.

7 Q: Okay. And can you tell the Court just who
8 those three LLCs are?

9 A: The first LLC is DEL Investments, which is a
10 South Carolina Limited Liability Company and I
11 am the only member of that, the second is
12 Mongo, LLC, which is also a South Carolina
13 Limited Liability Company and Adam Ruonala is
14 the only member of that and the third is BG
15 Holdings, which is a South Carolina Limited
16 Liability Company and I am the manager of that.
17 It is a manager managed LLC.

18 Q: Okay. And in organizing the company when you
19 were looking at buying the business at 800
20 Harden Street and the assets of that business,
21 did you speak with accountants and lawyers?

22 A: Yes, sir.

23 Q: Did you follow their advice as to the best way
24 to try to do what you wanted to do as far as
25 setting up the business?



- 1 A: Yes, sir.
- 2 Q: Okay. Are you a lawyer?
- 3 A: I am not.
- 4 Q: And are you a CPA?
- 5 A: I am not.
- 6 Q: Did you have independent knowledge about
- 7 business structuring other than general
- 8 information that you got at Darla Moore School
- 9 when you were in school?
- 10 A: No, sir.
- 11 Q: Okay. And are you a member of BG Holdings?
- 12 A: I am not.
- 13 Q: Okay.
- 14 A: Ms. Brenda Wells is the only member of BG
- 15 Holdings.
- 16 Q: Okay. And as it relates to BG Holdings tell
- 17 the Court a little bit about why BG Holdings is
- 18 a member and what the reason for that is.
- 19 A: We originally had two -- or one investor that
- 20 was going to come in for \$125,000. For other
- 21 business reasons he was not able to do the full
- 22 \$125,000. At that time we tried to find other
- 23 investors; but it boiled down to that
- 24 essentially Dan had to sell the bar, he had to
- 25 get out and we could not find other investors.



1 So we did owner financing through equity that
2 was to be repurchased by me and Mr. Ruonala
3 respectively.

4 Q: So do y'all have an agreement with Ms. Wells to
5 purchase the interests of BG Holdings in Five
6 Points Roost?

7 A: Yes, sir. The agreement is a two year option
8 and we can both buy up to 45 percent each.

9 Q: Okay. And, Mr. Bland, you heard Mr.
10 Harpootlian's opening statement and I believe
11 Mr. Wells is in the courtroom here. Does Mr.
12 Wells own any interest ---

13 A: No, he does not.

14 Q: --- in Five Points Roost? To your knowledge,
15 does he own any interest in BG Holdings?

16 A: No, he does not.

17 Q: Does he have any role in the operation of the
18 business Five Points Roost?

19 A: No, he does not.

20 Q: To your knowledge, has he even been in -- in
21 the establishment?

22 A: He has been asked not to be in either
23 establishment and he knows the toxicity that he
24 -- he would hold if that occurred, so he has
25 not been in, no.



1 Q: Does he have any relevant managing or operating
2 the business in any way?

3 A: No, sir.

4 Q: Okay. Now, you mentioned you were the manager
5 of BG Holdings. Is there -- and there was some
6 question in your deposition about whether you
7 could be removed as manager from BG Holdings.
8 Have you made inquiry to find out what the
9 status of your situation as manager with BG
10 Holdings is?

11 A: Yes, sir.

12 Q: Can you tell the Court what your control or how
13 your relationship is with BG Holdings such as
14 you have control there?

15 A: So long as BG Holdings owns more than 10
16 percent of Five Points Roost, LLC, it is
17 contractually obligated that either myself or,
18 if for whatever reason I am removed or retired,
19 Mr. Ruonala would be the only other member
20 possible as a manager of that LLC and that
21 comes with all voting rights and everything.

22 Q: So who in, as far as individuals are concerned,
23 has any input, right or say in the management
24 and the operation of Five Points Roost, LLC?

25 A: That is Adam Ruonala and myself.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: Is there any other person?

2 A: No.

3 Q: Okay. Now, there's also some question about
4 what you had at risk of what you've invested in
5 the business and have you had, since your
6 deposition, the opportunity to go back and
7 review records to ascertain that?

8 A: Yes, sir.

9 Q: And can you tell the Court from your review and
10 refreshing your recollection what you invested
11 in the business?

12 A: It is \$30,000 in total.

13 Q: And how did you come to that?

14 A: \$10,000 was a mutual fund that I liquidated and
15 then \$20,000 was paid to me through DHW
16 Purchasing Group and that was used to directly
17 invest into Five Points Roost, LLC.

18 **THE COURT:** I'm sorry, I didn't hear the last part
19 of that answer. The second thing was what?

20 A: It was \$20,000 debt that was owed from DHW
21 Purchasing Group.

22 **THE COURT:** Now, who -- I'm -- I'm getting confused
23 with all these letters. Who is DHW Purchasing
24 Group?

25 A: That is the entity that owned Carolina Pour



1 House.

2 Q: And that was where you were employed prior to
3 purchasing the assets; is that correct?

4 A: Yes, sir.

5 Q: Okay. Did you get a 1099? Is that how you
6 found out about that \$20,000?

7 A: I did.

8 Q: Now, tell the Court a little bit about the
9 roles that you and Adam Ruonala carry out as it
10 relates to the operations of the business.

11 A: As I said, I do all the day-to-day operations.
12 Mr. Ruonala helps me make decisions, he makes
13 -- he helps me set standards, he helps me set
14 policies as well as he makes sure that we are
15 still attaining to the best practices of the
16 industry.

17 Q: When you say industry's best practices, tell me
18 what you mean by that.

19 A: Well, there's a multitude of issues that --
20 that obviously come inherent with owning this
21 type of business, especially in a college town.
22 There's over-serving, there is over-
23 consumption, there are underage people that --
24 that try to come into this -- come into the
25 bar, and we do a multitude of different things



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 to try and prevent all of those things from
2 happening.

3 Q: Okay. And if you would, tell the Court a
4 little bit -- and I'll try to take those things
5 as you gave them to me and run down them. You
6 know, what -- and when you talk about underage
7 drinking, what is underage drinking?

8 A: That is, at least in -- in pertaining to Five
9 Points, when underage people use usually fake
10 IDs to get into a bar.

11 Q: Okay. And underage being someone less than 21?

12 A: Yes, sir.

13 Q: Okay. And so what steps have y'all taken since
14 you started in December to try to stop that
15 from happening?

16 A: We've taken multiple steps. We've given our
17 door staff multiple tools for the front door.
18 As -- as you said, we have black lights that
19 can check and identify if it's a fake ID
20 because holograms have to show up if it's a
21 real ID and most fakes will not have holograms
22 on it. There is an ID guide booklet that we
23 have that shows all 50 states, it shows the
24 previous IDs as well as future ID's that they
25 are implementing, and that is a yearly renewal



1 handbook. And then we also have purchased a
2 state of the art scanner that can scan all 50
3 states, it can scan Canada, military, it has
4 the ability to take pictures of the IDs and
5 save it to that -- to that specific name and
6 file, it keeps a record of every single person
7 that comes in that is scanned as well as has
8 technologies like the pass back technology
9 which you can set time frames to know if -- if
10 an ID has been used multiple times.

11 Q: Do you know who makes that scanner?

12 A: I believe it is UCON(phonetic) Security.

13 Q: Okay. And what does it accomplish when you use
14 it?

15 A: Well, it -- using all the tools collectively
16 gives us a really good chance of catching all
17 fakes.

18 Q: How have you trained your staff at the door to
19 use these tools?

20 A: Well, we have gone through -- gone through
21 obviously explaining to them how each one is
22 used, we have made sure that they know that we
23 are watching them at all times. We have a
24 state of the art camera system, it's 1080P full
25 HD and it's -- I can pull it up on my phone and



1 watch it at all times. We have a camera that
2 directly looks at the front door bouncer and
3 that specifically is so that I can see as well
4 as we have documented footage of every single
5 person having their ID looked at, having it
6 checked, having it scanned.

7 Q: Okay. Has using this -- based on experience
8 you've had working in other places, has it
9 resulted in turning away more patrons who
10 apparently don't have the proper ID?

11 A: Oh, absolutely. I've worked in a multitude of
12 other bars in Five Points and it is far and few
13 between to ever have a patron turned down and
14 we turn down multiples a night. We -- we turn
15 down on average I would say 25 to 50 a night.

16 Q: Okay. Now, you mentioned the camera system,
17 what is the purpose of the camera system and
18 what does that do?

19 A: As I stated, it is for when I'm not
20 specifically at the bar, I can still monitor
21 and make sure that everything is going on. Mr.
22 Ruonala as well has it on his phone, he can
23 monitor, but it's a big brother type situation
24 where the employees always know that somebody
25 is watching. It forces them or it -- or it



1 allows them to -- to stick to our standards and
2 the best practices and try to -- and try to
3 strive to do it the right way because they know
4 somebody is watching, but also it allows us to
5 have documentation of everything. We had an
6 incident where there were two -- two people
7 that -- that believed that one of them had a --
8 had a restraining -- restraining warrant -- or
9 a restraining order against them, and their
10 attorney reached out to us, unbeknowing to us,
11 I believe a week later and we were able to pull
12 that footage from a week ago and provide that
13 to him. So it allows us to have complete
14 control and DVR footage of every single thing
15 that goes on inside the bar.

16 Q: How about -- you mentioned over-serving, what's
17 over-serving?

18 A: For obvious reasons that is usually with
19 extremely discounted pricing that people tend
20 to over -- get over-intoxicated because they
21 are freshly 21 or 22 and they can't necessarily
22 understand how to pace themselves. We make all
23 of our staff take the TIPS course, which is a
24 course that is required for the extended hours
25 permit. And this course essentially teaches



1 you how to notice people that are beginning to
2 become over-intoxicated or the different signs
3 that are needed. So most bars usually only
4 have the bartenders that have this. We have
5 our full staff take these classes and online
6 courses to make sure that we prevent over-
7 intoxicated people from coming in at the
8 beginning at the door rather than waiting to
9 recognize when a bartender can realize once
10 they've come inside of the business.

11 Q: Are you turning people away if you think
12 they've had too much to drink before they come
13 into your establishment?

14 A: Absolutely.

15 Q: Okay. How do you make sure that you keep your
16 employees trained and up to training on the
17 TIPS System?

18 A: We have a quarterly meeting. Usually you can
19 get a representative to come out and they will
20 teach classes anywhere of a size of up to 25 to
21 30. And if there's someone that's in one of
22 those lapse periods, you can also take the
23 course online and get the same certification.

24 Q: And is everyone working in your establishment
25 got that certification as we speak today?



1 A: Yes.

2 Q: Now, are you doing anything from a standpoint
3 of staffing to try to make the place safer and
4 better operating?

5 A: Yes, sir. The Columbia regulated at least --
6 for the extended hours permit, again, they
7 recommend that you do one for every 100 patrons
8 you have one staff member. We have doubled
9 that and we do one for every 50. As well as we
10 are currently -- currently developing a program
11 with a ex-CPD and ex-SLED officer that -- that
12 utilizes stuff such as verbal jiu-jitsu, which
13 from what I understand, teaches you ways to
14 passively remove possibly unruly patrons.

15 Q: Since you've been open, have you had a
16 situation where you've had any unruly patrons?

17 A: Yes, sir.

18 Q: And what's happened?

19 A: We have actually been able to catch it usually
20 before anything evolves, but our door staff is
21 -- is instructed to handle it with the utmost
22 severity. We -- we do not, you know, throw
23 people out of bars, we do not put our hands on
24 -- on patrons. We -- we passively remove them,
25 and -- and we do that by having so many



1 bouncers. You know, if there was only possibly
2 three people working which is the one for every
3 hundred, then it's a different environment than
4 if four or five doormen, you know, will
5 approach you and ask you to leave.

6 Q: Have you had any incidents since you've been
7 opened where you've had to have law enforcement
8 involved?

9 A: We have not.

10 Q: Have you had any citations of any kind inside
11 or outside of your location resulting from
12 something happening there?

13 A: We have not.

14 Q: Okay. Stephen, just to kick back, if you
15 would, tell the Court a little bit about --
16 little bit about your experience in working in
17 -- in the food and beverage or the hospitality
18 industry.

19 A: I've been in the food and bev industry for
20 about five years. I started at Sharky's Bar,
21 which is also in Five Points and Red Hots Bar,
22 which is also in Five Points. I was working
23 there as a door staff as well as barback as
24 well as bartender. I have moved through all
25 the ranks. I worked at Social in the Vista.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 I worked at Carolina Pour House as well. I
2 essentially have done every job from scrubbing
3 the floors, stocking the ice, stocking the
4 beer, inventory management, everything that has
5 to do with the food and beverage industry.

6 Q: And you've been engaged in the industry for
7 more than five years at this point?

8 A: Yes, sir, just over.

9 Q: Now, prior to you and Adam opening this
10 business after you'd purchased it, did you make
11 any effort to -- well, strike that. Before you
12 started did you understand there were issues in
13 Five Points that were of concern to you?

14 A: Yes, sir.

15 Q: And tell the Court a little bit about what
16 those issues were.

17 A: Obviously there were prior -- the prior
18 establishment had an incident and a problem.
19 We recognized that that was going to be a
20 factor moving forward and we reached out to the
21 community. We went to community meetings, we
22 gave out our numbers to everyone, we gave out
23 one sheeters that showed how we were doing
24 stuff different, much of what I just spoke
25 about was on the one sheeter, we asked for



1 opinions, we asked for any concerns that people
2 had and -- and offered an open-door policy
3 where we would always entertain anything that
4 anyone had to recommend.

5 Q: Okay. Now, after you filed the application --
6 strike that too. Before -- when you filed the
7 application, tell the Court a little about what
8 process you went through to file the
9 application.

10 A: For the -- for the application we went to the
11 DOR. I spoke to them and got any
12 recommendation on how to fill it out as
13 factually as I could.

14 Q: Okay. And after you filed that application,
15 there was some protest filed.

16 A: Yes, sir.

17 Q: What did you and Adam do with regard to the
18 protests?

19 A: After the protests we sent out personal
20 invitations to every single protestor as well
21 as university representatives and law
22 enforcement representatives. We sent out the
23 invitations to an open house that basically we
24 wanted to show them the businesses, show them
25 the remodels that we've done, how we've made



1 them upfitted, how they're not -- they're not
2 dive bars. We wanted to show them that we were
3 there to voice concerns that we -- we had
4 samples of food out, that -- that we were --
5 that we are selling. And also, just to show
6 them our processes, we pulled up the cameras on
7 our phones, showed them all of that. We had
8 the doormen sitting at the door acting as if --
9 as if we would be open normal hours, checking
10 IDs with black lights, the whole nine yards.
11 And this was just really to show that we are
12 doing this stuff, we do have the -- the best
13 industry practices at heart, that we are
14 setting new standards and we're -- we're
15 following through with it.

16 Q: Okay. And do you have any intention, if the
17 Court allows this license, of changing those
18 practices?

19 A: No, sir.

20 Q: Is there a reason for that?

21 A: The most obvious would be that we're up for a
22 renewal in six months.

23 Q: All right. Has it been a good business
24 decision or a bad business decision for you?

25 A: It's been a fantastic business decision. Not



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 only are we making more money, but we have had
2 zero incidents, we have had no problems,
3 there's a much smoother, tight-knit ship
4 compared to other businesses that I've worked
5 at, and it's showing other people in the
6 community that you can do it the right way, you
7 don't have to cater to -- to, you know, dollar
8 liquor, 50 cent liquor, you don't have to cater
9 to the lower -- lower tier of stuff and that --
10 that there is a target market out there that's
11 willing to come and that's willing to have a
12 good time in a fun, safe environment.

13 Q: What are the business hours that Five Points
14 Roost is open?

15 A: We are open Thursday, Friday, Saturday from
16 12:00 to 5:00 for lunch and then Monday through
17 Saturday 8:00 to 2:00.

18 Q: And you're open Monday to Saturday 8:00 to
19 2:00, but you actually have a late opening
20 permit, do you not?

21 A: Yes, sir.

22 Q: Tell the Court what your plans are with that
23 and why you have it.

24 A: Well, the main reason that have the extended
25 hours permit is that we have found it is better



1 to let the environment organically close and
2 come to a close without forcing people to leave
3 or, you know, enacting strict lines, like
4 deadlines, so we stopped liquor sales at 2:00,
5 we try to increase our food sales at that time
6 to help anyone that is -- that is on their way
7 home, grab some snacks, find an Uber in a safe
8 manner, you know, call their -- call the Uber
9 on their phone, have time to wait and finish
10 and then leave. They're not forced onto the
11 street where you have, you know, hundreds of
12 people that are waiting -- waiting to leave,
13 and it's just a safer way to close. We turn
14 the lights up, turn the music down and just --
15 and use an organic closing for usually about 20
16 to 30 minutes.

17 Q: And I know you're aware that the neighborhood
18 has engaged in an effort to end that late
19 operating permit practice, have you and Adam
20 taken a position on that?

21 A: Yes, sir. We are in favor of it.

22 Q: So you've taken position in favor of
23 eliminating that permit?

24 A: Yes, sir.

25 Q: And did you attend a public meeting or make



1 that known?

2 A: Yes, sir.

3 Q: And, in fact, you might be at the public
4 meeting that's happening today but you're here
5 at this hearing instead?

6 A: Exactly.

7 Q: Okay. Now, let's talk a little bit about what
8 your food sales are and what you're doing about
9 your food sales.

10 A: Currently our food sales are about 8 to 10
11 percent, after reviewing the documents. Now,
12 this is obviously way better than the previous
13 establishment who -- who to my knowledge, it
14 was doing extremely less than that. We are
15 opening for lunch, we are staffing for lunch,
16 we are promoting, we're taking out
17 advertisements in The Daily Gamecock, stuff
18 like that. We've brought back the traditional
19 Frank's Hot Dogs as a ode to Frank's Hot Dogs,
20 which was at the previous location for 30 plus
21 years and we are trying to -- to show the
22 community this is a real thing, that we are
23 opening for lunch, that we are serving food and
24 that we're making an attempt to -- to increase
25 our food sales.



1 Q: And have you tried to undertake other things to
2 both increase food sales and have more food
3 sales?

4 A: Yes, sir. Our main goal is to partner with
5 restaurants in the community and be able to
6 bring in their food and we do final
7 preparations on it and then sell it. We are
8 partnering right now with Village Idiot Pizza
9 who is also a Five Points merchant and have
10 future plans to partner with 2 Fat 2 Fly.

11 Q: Okay. And do you think that those things will
12 further increase your -- your food sales?

13 A: Yes, sir.

14 Q: Do you recognize that's an important part of
15 operating an enterprise like you're operating?

16 A: Yes, sir.

17 Q: Now, do you have to your knowledge, a kitchen
18 that allows you to serve enough food in this
19 instance?

20 A: Our kitchen is limited, but it is -- everything
21 in there is DHEC approved. In order to -- to
22 get it to where we would be actually do full
23 prep -- full cooking, it would be -- it would
24 be a significant investment for the property.

25 Q: Okay. Now, do you have a rating from DHEC for



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 your restaurant operation?

2 A: Yes, sir.

3 Q: And what is that rating?

4 A: That's an A.

5 Q: Okay. And, Stephen, you understand that one of
6 the issues about operating an enterprise that
7 sales alcoholic beverages is moral character.
8 Do you believe that you're a good moral
9 character?

10 A: Yes.

11 Q: Have you ever been arrested?

12 A: I have.

13 Q: And tell the Court a little bit about the
14 circumstances of that.

15 A: I was arrested five years ago. It was my 21st
16 birthday and we were having a get-together at
17 my apartment. The cops were called and since
18 I was the name on the lease, I was given a
19 breach of peace misdemeanor.

20 Q: Okay. And how did you plead to that?

21 A: No contest.

22 Q: Did you receive any fine or other sanction?

23 A: No, sir.

24 Q: Okay. Did you disclose that in your
25 application?



1 A: Yes, sir.

2 Q: And did you have any understanding or
3 development of understanding of whether or not
4 that was a disqualifying event?

5 A: To my understanding, they determined that it
6 was not.

7 Q: Okay. How do you screen and evaluate employees
8 to make sure that they're good people working
9 for you?

10 A: We have multiple different ways of doing this.
11 The most prominent is a SLED check, which is
12 where you can look up the criminal history of
13 -- of any person. We also use Paychex for
14 payroll, which does immigration status checks,
15 Social Security checks, stuff of that nature.
16 We require references usually from a either
17 past or present employee and then we also have
18 them do shadowing for at least two shifts and
19 this is just to make sure after all of those
20 boxes have been checked that they're still a
21 good fit for the business.

22 Q: Okay. Now, as it relates to the folks that
23 work with you, what is your role and how do you
24 supervise them?

25 A: As I said, my role is obviously all day-to-day



1 operations. I supervise them in a -- various
2 ways. I mean, I'm there 24/7, I'm there every
3 single -- almost every single night, if not,
4 then they know that I'm supervising them
5 through cameras, but -- but there's everything
6 from making sure that, you know, they're
7 sweeping the floor right to making sure that
8 their liquor pour is on point.

9 Q: Okay. How do you -- how do you -- how do you
10 handle tips at the establishment?

11 A: Tips are pooled at the end of the night, the
12 tips are split between -- between the working
13 bartenders and that is claimed through Paychex,
14 payroll.

15 Q: So you report all the tips of your employees on
16 their tax forms?

17 A: Yes, sir.

18 Q: Okay. Now, you testified you've worked in the
19 industry so you've been previously involved in
20 the sale of alcoholic liquors, beer and wine?

21 A: Yes, sir.

22 Q: Have you ever had a beer and wine permit that
23 was issued to you revoked?

24 A: No.

25 Q: Okay. Now, let's talk a little bit about you



1 -- you worked at the Pour House and we talked
2 about that. Tell the Court a little bit about
3 some of the things that happened at the Pour
4 House relating to your objection to practices
5 and then what happened after you took over as
6 general manager of the Pour House.

7 A: There were many things that were done
8 incorrectly at the Pour House, the main -- the
9 main one would be serving liquor after 2:00.
10 I, from previously working in Five Points
11 institutions, had not known that this was an
12 actual rule until I went to Social in the
13 Vista. We had always just assumed through
14 recommendation of owners and managers that the
15 extended hours permit applied to liquor as
16 well. I mean, it wasn't until going to Social
17 in the Vista that I learned that it was not.
18 So returning to Five Points and Carolina Pour
19 House I obviously never -- never sold liquor
20 after 2:00 while bartending because -- but that
21 was normal practice there. And then after the
22 Saint Patrick's Day incident when I took over
23 managerial control I never forced or encouraged
24 or recommended that -- that any employee serve
25 liquor after 2:00.



1 Q: Okay. Now, the location you're in, obviously
2 you guys acquired it from the entity that
3 operated Carolina Pour House which had acquired
4 it from another entity, to your personal
5 knowledge, how far back does it go as a
6 location where beer and wine alcohol was
7 served?

8 A: I know that original Pour House was from 2014
9 to -- or 2004 to 2014, and then it was Carolina
10 Pour House from 2014 to 2017 and way before
11 that it was Frank's Hot Dogs who had a beer and
12 wine and liquor license and that was in the
13 '70s, so it's 40 plus years.

14 Q: Now, since you have been engaged in operating
15 the business, since you guys opened, have there
16 been anything that occurred that you're aware
17 of that's caused any issue or problem with the
18 community that's resulted from your operation
19 at Five Points Roost?

20 A: No.

21 Q: Has anyone in law enforcement or otherwise
22 advised you about such a problem?

23 A: No, sir.

24 Q: Have you guys in operating the business kept an
25 open line in speaking with and dealing with law



1 enforcement?

2 A: Yes, sir.

3 Q: If you would, tell the Court what you have done
4 in that regard.

5 A: We have weekly correspondence with law
6 enforcement, if that is from the street patrol
7 during the night or from Adam in contact with
8 his connections at CPD, we make sure we're
9 doing everything right. We also talk to SLED
10 when they're out and ask them if there's
11 anything we can do. And they have on multiple
12 occasions praised us for the way that we are
13 doing stuff compared to the other locations in
14 the area.

15 Q: Okay. Has anyone in law enforcement given you
16 any advice that you haven't followed?

17 A: No.

18 Q: Now, with regard to the application process,
19 did y'all place the advertisement that is
20 required?

21 A: Yes, sir. We advertised for three consecutive
22 weeks in the Columbia Star as well as had the
23 ABL protest paper posted on the building for 90
24 days.

25 Q: Now, as it relates to your taking over, have



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 you made an effort to try to familiarize
2 yourself with the rules and regulations and the
3 law that applies to operating business such as
4 yours?

5 A: Yes, sir. I have read the ABC Act, I by no
6 means am an expert or a lawyer, but I strive to
7 do everything the right way and -- and always,
8 always look for the best practices to do so.

9 Q: Okay. In making, to your knowledge, has any
10 permit that's been issued to the location at
11 800 Harden Street ever been revoked?

12 A: I can only speak to the previous owner, but I
13 know that he had a license in 2014. I believe
14 it was reviewed in 2016, and then I turned it
15 in -- after the purchase I turned in the valid
16 license to the DOR with our application.

17 Q: Okay. You've had a chance -- and I believe the
18 application has been put into record. You've
19 had a chance to review the application that you
20 submitted to the Department Of Revenue. To
21 your knowledge, are the statements in that
22 application true and correct?

23 A: Yes, sir. To my knowledge it's all factual
24 information.

25 Q: Okay. Now, have you knowingly allowed any



1 violation of any of the laws that you
2 understand them to be to occur while you've
3 operated Five Points Roost?

4 A: No, sir.

5 Q: And have you consulted with other people to try
6 to make sure that you were dealing with those
7 things properly?

8 A: Yes, sir.

9 Q: And when you talk -- when you and Mr. Ruonala
10 work, how often do you communicate?

11 A: Daily.

12 Q: Okay. Now, going back to the operation of --
13 of the location, have you made any
14 disbursements -- disbursements to any of the
15 owners since you've operated it?

16 A: Yes, sir. We have had one disbursement.

17 Q: And you disbursed to the members?

18 A: Yes, sir.

19 Q: The members, entities that are members of Five
20 Points Roost?

21 A: Yes, sir.

22 Q: And have you made any payments to Mr. Daniel
23 Wells?

24 A: No.

25 Q: Other than the note that the LLC owes Mr.



1 Wells, do you have any intentions of making any
2 payments to Mr. Wells?

3 A: No.

4 Q: Mr. Bland, if you would, just tell the Court
5 how you've approached the application process
6 and how you are approaching and continue to
7 plan to approach the operation of the business.

8 A: Adam and I take every opportunity to listen to
9 the concerns of the community. We make sure
10 that everything that we do is in line with the
11 standards that we've set. We monitor our
12 employees at all times. We make sure that
13 everything is done the way that we have set it
14 out in the employee handbook as well as
15 continuing to contact people such as the law
16 enforcement, the university, a multitude of
17 people just to make sure that every -- all of
18 our lines of communication are still open and
19 that if anybody has any concerns or any
20 recommendations that we are open and willing to
21 hear it.

22 Q: I have no further questions for Mr. Bland. Mr.
23 Bland, if you would answer any questions that
24 Ms. Shields or Mr. Harpootlian have for you.

25 A: Yes, sir.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 **MR. HARPOOTLIAN:** Your Honor, might I ask a five or
2 ten minute recess so that I may ---

3 **THE COURT:** I think it's probably high time we took
4 a little break. Let's take a ten-minute break
5 and then we will resume.

6 (Off the Record)

7 **THE COURT:** All right. Mr. Harpootlian whenever
8 you're ready.

9 **MR. BLAND - CROSS-EXAMINATION BY MR. HARPOOTLIAN:**

10 **Q:** Please the Court, Your Honor. Mr. Bland, I
11 believe we've met before?

12 **A:** Yes.

13 **Q:** And that would have been last week in my
14 office. Mr. Bland, can you look at me? I
15 don't know why you're looking over that way,
16 but could look at me, please?

17 **A:** Yes, sir.

18 **Q:** I like to make sure -- is there something on
19 that screen?

20 **A:** Excuse me?

21 **Q:** Are you looking at something on the screen?

22 **A:** No, I'm looking at the Judge.

23 **Q:** Okay. Well, the Judge isn't asking you the
24 questions, I am. Could you look at me?

25 **A:** Yes, sir.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: Thank you. So, Mr. Bland, we took your
2 deposition last week, correct?

3 A: Yes, sir.

4 Q: And you indicated that you were under oath, you
5 knew you were under oath and you were telling
6 the truth, right?

7 A: Yes, sir.

8 Q: Now, let me ask you a couple of things to sort
9 of clarify the statements you've made here
10 today. I noticed in the application that
11 somebody borrowed \$150,000 or they paid -- they
12 apparently have \$150,000 in debt to something
13 called DHW Purchasing Group, right?

14 A: There is \$150,000 note to DHW Purchasing Group.

15 Q: And what -- and -- and Five Points Roost
16 borrowed \$150,000? Bought something? What did
17 they do?

18 A: It is a \$150,000 note.

19 Q: For what?

20 A: For the purchase.

21 Q: Okay. In other words, nobody gave you
22 \$150,000?

23 A: No.

24 Q: It's -- I mean, if all that we have is a note,
25 I don't see a purchase agreement anywhere in



1 here. Is there a purchase -- a written
2 purchase agreement?

3 A: No, sir.

4 Q: Okay. So this is \$150,000 that you agreed to
5 pay to DHW Purchasing Group, LLC, is that
6 correct?

7 A: Yes, sir, the note is to DHW.

8 Q: And DHW was a former owner -- well, is the
9 owner of Pour House, there is no more Pour
10 House, but when it was operating they -- that
11 was who they were, correct?

12 A: The entity that owned Pour House, yes, sir, was
13 DHW Purchasing Group.

14 Q: And that's Mr. Wells' entity?

15 A: He was the sole member.

16 Q: He was the sole member. So did you -- and did
17 he sign this note -- or did he sign anything on
18 the note, or just you?

19 A: Excuse me?

20 Q: Who executed the note on behalf of Five Points
21 Roost?

22 A: The note is payable from Five Points Roost to
23 DHW Purchasing Group.

24 Q: And did you execute that note ---

25 A: It is ---



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

- 1 Q: --- on behalf of Five Points Roost?
- 2 A: It is payable over the next year.
- 3 Q: Over the next year?
- 4 A: In a year.
- 5 Q: I'm sorry?
- 6 A: In a year.
- 7 Q: I can't hear you.
- 8 A: In a year.
- 9 Q: \$10,000 a year for 16 years or 15 years?
- 10 A: No, sir. It is a \$150,000 note. ---
- 11 Q: Right.
- 12 A: --- payable by profits ---
- 13 Q: Right.
- 14 A: --- that is beginning in a year.
- 15 Q: Beginning in a year. I'm sorry. I
- 16 misunderstood you. So -- so Mr. Wells is paid
- 17 from profit so Mr. Wells has an interest in the
- 18 profit of Five Points Roost, LLC? He doesn't
- 19 get paid unless there's profit?
- 20 A: Mr. -- the note is paid through profit.
- 21 Q: Okay. So it doesn't say that in the note, does
- 22 it?
- 23 A: The note is payable through ---
- 24 Q: It's payable.
- 25 A: --- profit.



- 1 Q: So where is the document that would reflect
2 that Mr. Wells only gets the \$150,000 upon Five
3 Points Roost making a profit?
- 4 A: It was understood that it's ---
- 5 Q: Okay. Under ---
- 6 A: --- paid through profit.
- 7 Q: --- understood. Now, in your dealings with Mr.
8 Wells you have a number of understandings that
9 have not been reduced to writing, is that
10 correct?
- 11 A: I have -- we've had verbal contracts with him.
- 12 Q: Verbal contracts, okay. And did you have a
13 lawyer look at those verbal contracts?
- 14 A: The one was still under negotiation, and then
15 any other contract was overlooked by a counsel.
- 16 Q: Written ones were?
- 17 A: Yes, sir.
- 18 Q: No verbal ones?
- 19 A: Well, the one was still under negotiation's.
- 20 Q: What one was still under negotiation?
- 21 A: The amount that I was owed from DHW.
- 22 Q: Okay. So let me -- okay. Let's first of all
23 talk about this money which you owed, you, Five
24 Points Roost, you're the managing member, owed
25 to Mr. Wells. This was for what? Did he give



1 you -- loan you \$150,000?

2 A: No, sir. That is part of -- that is the
3 purchase price of the assets.

4 Q: Okay. And what were the assets that you
5 purchased?

6 A: It was a multitude of things. It was the right
7 to do business in the location.

8 Q: Okay. Let me stop you one second. The rights
9 to do business in the location. Is it your
10 position that Mr. Wells had some legal right to
11 conduct business in that location?

12 A: DHW Purchasing Group had a year left on the
13 current lease.

14 Q: Okay. But they had -- but I believe you
15 testified that they have no lease, anything
16 left on the lease during your deposition. Is
17 that what you said?

18 A: I do not have the document in front of me so --
19 -

20 Q: Well ---

21 A: --- if I ---

22 Q: --- let me ask you this. That building was
23 purchased by somebody else, correct?

24 A: Yes, sir.

25 Q: And you did not assume his lease, did you, Mr.



1 -- Mr. Wells' lease, the Pour House ---

2 A: We had ---

3 Q: --- lease, did you assume their lease?

4 A: We had the opportunity to assume the lease.

5 Q: You had the opportunity to assume the lease.

6 Is that in writing somewhere?

7 A: When -- yes.

8 Q: Where?

9 A: When we purchased it, we had the opportunity to
10 either assume the lease. We opted to enact a
11 new lease because we did not want to have to
12 negotiate a year down the road. The new lease
13 was a five year lease.

14 Q: Was that with a new purchaser of the building?

15 A: Yes, sir.

16 Q: Okay. Now, where in writing in your
17 application, I'll be happy to give you a copy
18 of it, have you described that written
19 agreement to assume the lease? Is it in here?

20 A: I do not believe it's in the application.

21 Q: Is there -- is there a written document
22 somewhere?

23 A: I would have to check the facts and ---

24 Q: So you -- okay. So he had turned in his
25 business license and was not going to operate



1 the Pour House anymore, correct?

2 A: Yes, sir.

3 Q: And that would have been prior to you getting
4 or signing that note, correct?

5 A: Yes, sir.

6 Q: You indicated that you, in several places, that
7 you were purchasing the business. Were you
8 purchasing the business?

9 A: It was an asset, so.

10 Q: Okay. What was the -- tell me the assets. Was
11 the license an asset?

12 A: The right to the business in the location as in
13 the lease was an asset, everything inside of
14 the business ranging from coolers, TV's,
15 everything of that nature was an asset. There
16 was the location, the location alone is an
17 asset. I have, working there in previous
18 years, had seen the revenue possible at that
19 location.

20 Q: What rights did Mr. Wells have at that
21 location? He had another year left on his
22 lease, but he shut down his business, he wasn't
23 operating a bar in there, right?

24 A: The least was stood regardless if he had a
25 business or operating on ---



1 Q: So you were taking -- you -- by -- I mean he
2 owed that lease payment, and by the way that
3 lease payment was \$2,400 a month, right?

4 A: I would have to check the facts. I'm not a 100
5 percent sure.

6 Q: Let me get you the -- well, it was less than
7 what you ended up -- half of what you ended up
8 paying -- \$6,400 a month, right?

9 A: That's correct.

10 Q: Okay. So why would you just assume the lease?
11 It's half for that year anyway.

12 A: Because having a year lease into a new business
13 was uncertainty. We wanted to have certainty
14 and by paying more money, not only did we get
15 a five year lease, but we got two options of
16 three years each that could extend it to ---

17 Q: But I guess what I'm asking, what asset, what
18 -- how much do you pay Mr. Wells for the right
19 to assume his lease and then not assume it?
20 How much are you paying for that? Of the 150,
21 how much is attributed to that?

22 A: I don't know if there's a value that you can
23 assign to each individual thing, but you -- the
24 location, the past revenues that are there and
25 the assets within the company.



1 Q: Okay. Now, you would agree with me the past
2 revenues that were there was while Mr. Wells
3 was operating the Pour House, correct?

4 A: It was while Mr. Wells was operating, but
5 specifically I noticed when I was operating
6 the last three months when I changed a lot of
7 the policies, a lot of the pricing, how
8 profitable it was and having that first mover
9 advantage to be in there to operate ---

10 Q: Okay. Let's talk about the revenues. The
11 revenues at the -- at the Pour House and at, I
12 guess at -- at the Roost, what -- what's the
13 biggest thing that brings in money for you?
14 What's the biggest money maker for you?

15 A: Are you talking about events or ---

16 Q: No. I'm talking about you sell liquor, beer,
17 wine, food -- do you sell anything else?

18 A: No, sir.

19 Q: Okay. Liquor is number one?

20 A: I believe we do 65 percent liquor ---

21 Q: Right.

22 A: --- yes, sir.

23 Q: How much beer?

24 A: It is I believe 30 to 25 I believe.

25 Q: Okay. Say that -- how much was the liquor?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 A: It's around 65.

2 Q: 65 and then?

3 A: 25 beer.

4 Q: 25 beer and then that leaves the ---

5 A: The 10 percent food.

6 Q: --- 10 percent for food. So you're not
7 primarily or substantially in the business of
8 selling food, correct?

9 **MR. MONTGOMERY:** Object to the form, Your Honor.
10 It's a crazy question.

11 **MR. HARPOOTLIAN:** I know. I'm asking is that a
12 substantial -- is food a substantial ---

13 **THE COURT:** Mr. Harpootlian, when an objection has
14 been --

15 **MR. HARPOOTLIAN:** Oh, I apologize.

16 **THE COURT:** --- give me an opportunity to rule on
17 it.

18 **MR. HARPOOTLIAN:** I apologize, Your Honor. I
19 thought it was -- I'm sorry.

20 **THE COURT:** You thought he was just ---

21 **MR. HARPOOTLIAN:** Messing around.

22 **THE COURT:** I'm going to -- I'm going to overrule
23 his objection. You can continue.

24 **MR. HARPOOTLIAN:** Thank you, Your Honor. So -- and
25 I apologize to the Court for the levity but I



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 just ---

2 Q: What does substantially mean to you?

3 A: I believe 10 percent is a substantial amount.

4 Q: Okay. And primarily, what does primarily mean
5 to you?

6 A: Mainly. I don't know.

7 Q: Mainly? Okay. So is 10 percent mainly of
8 something?

9 A: \$4,000, which is around, what, 10 percent, 4-
10 to \$5,000 is an essential part of the business.

11 Q: 4- to \$5,000 a month?

12 A: It is I believe ---

13 Q: We're only talking about the Roost here now.

14 A: Okay. Yes, sir. If -- if I remember
15 correctly.

16 Q: Well, 10 percent of -- I think you told me --
17 how much do you make a month at the Roost?

18 A: It varies. It's ---

19 Q: What's your -- I think you told me and we can
20 pull the transcript. You average \$20,000 a
21 month so far gross or -- I mean \$20,000 a week,
22 I apologize. Is that correct?

23 A: We can average \$20,000 a month, but there are
24 ---

25 Q: A week. A week.



1 A: --- or a week, yes, sir. But there are many
2 factors that go into that ---

3 Q: Well, let me ---

4 A: --- the bar is a seasonal aspect. Obviously
5 summer is drastically reduced because of the
6 students and frequency of attendance.
7 Obviously football season is our largest and
8 that is usually when we are doing those
9 numbers.

10 Q: Okay. You -- I took your deposition.

11 MR. HARPOOTLIAN: Your Honor, I would ask the
12 Court's permission to unseal the original and
13 hand it to him. I have a copy for you and for
14 ---

15 THE COURT: All right. Go ahead.

16 MR. HARPOOTLIAN: The plastic these days, Your
17 Honor. I'm used to the old -- I got it I
18 think. There we go. There we go. Sorry.

19 Q: Now, Mr. Bland, this is the original deposition
20 along with the exhibits of what we did last
21 week, okay?

22 A: Okay.

23 Q: And I'm going to -- I'm going to ask you to go
24 to certain pages for me and I'm going to read
25 you -- I'm going to ask you a question, then



1 I'm going to ask you to read your response,
2 okay? So ---

3 **MR. MONTGOMERY:** Your Honor, I'm going to object.
4 That's an improper method of examination. The
5 proper method of examination if his intention
6 is to attempt to impeach the witness with the
7 deposition is to ask the question. You can't
8 bring the transcript until the witness gives a
9 different answer.

10 **MR. HARPOOTLIAN:** He already has given a different
11 answer, that's why I've introduced the
12 transcript. By way of example, Your Honor, if
13 I might ask the question with the Court's
14 permission.

15 **THE COURT:** Go ahead. But let's stick to the things
16 that you've already asked and ---

17 **MR. HARPOOTLIAN:** Yes, ma'am.

18 **THE COURT:** --- gotten the answers on.

19 **MR. HARPOOTLIAN:** Yes, ma'am.

20 Q: So is it your position -- what is your position
21 that the food versus liquor -- what percentage
22 of your sales do you suppose are foods opposed
23 to alcohol? What's your answer?

24 A: I would say anywhere from 8 to 10 percent.

25 Q: Okay. Would you go to page 118, am I right



1 about that, yeah, 118 of that deposition.

2 Okay. Would you read to me Question Number 6?

3 A: That was, What percentage of your sales do you
4 suppose are food as opposed to alcohol?

5 Q: And your answer was?

6 A: I'd say right now truthfully around 5 percent.

7 Q: Around 5 percent. So it's gone up 3 percent,
8 almost 3 to 5 percent since last week?

9 A: Well, no, sir. It was factually -- at that
10 time that's what I believed to be true. After
11 the deposition there were multiple incidences
12 that I went through and checked with the real
13 facts to see what I had possibly misquoted.
14 This was my first deposition, I felt
15 intimidated, I was nervous and truthfully
16 embarrassed that I didn't know some of these
17 financial records, but I didn't expect all of
18 these financial records to be under question
19 for an ABL.

20 Q: Okay. Why for an ABL? Is ABL somehow not as
21 important as any other court?

22 A: That's not at all what I said, sir.

23 Q: What did you mean? Just for an ABL, what does
24 that mean?

25 A: There's a checklist and requirements for an ABL



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 and I believe that we met every single one of
2 those so these are the statements and ---

3 Q: Okay. Well, let me ask you this.

4 A: ---, the information that I prepared for.

5 **MR. MONTGOMERY:** And, Your Honor ---

6 **MR. HARPOOTLIAN:** I apologize for speaking. I did -
7 - I thought he was done.

8 Q: Are you done?

9 A: Yes.

10 Q: Okay. So of that 8 to 10 percent, how much of
11 that is food that you prepare in the
12 establishment or food that you have brought in
13 and maybe rewarmed or maybe not rewarmed? I
14 mean -- strike that. Let's start over. The
15 food you have in your refrigerator is hot dogs,
16 correct?

17 A: We do serve hot dogs.

18 Q: Okay. What else do you buy from a wholesaler
19 and keep in your refrigerator to serve?

20 A: We have a multitude of fixings for each of the
21 different hot dogs that we serve. This can be
22 ---

23 Q: Okay.

24 A: --- everything from onions, chili, everything
25 that could go along with that, the chips, the



1 sides, the pickles, everything of that nature.

2 Q: Pickles, chips, onions, anything not related to
3 a hot dog?

4 A: Well, hot dogs are our primary sales ---

5 Q: Okay.

6 A: --- since we are trying to obviously recapture
7 the Frank's Hot Dogs that was at the previous
8 location.

9 Q: Okay. And so you're doing \$20,000 a week, and
10 I can revisit that with you in your deposition
11 if you'd like, you would admit that's what you
12 said last week, 20,000 a week?

13 A: At that time, yes, sir.

14 Q: Okay. And of the 20,000 a week you're selling
15 8 -- 10 percent of that would be \$2,000 a week
16 in hot dogs; is that right?

17 A: No, sir.

18 Q: Okay. What else is in that \$2,000?

19 A: There are pizzas.

20 Q: Okay. Now, let me stop you. You don't prepare
21 those pizzas, you buy them from the Village
22 Idiot?

23 A: We do final preparation.

24 Q: What's final preparation?

25 A: That is we have a commercial heater that we use



1 and we put them in a commercial heater, we
2 advertise for them as well as prepare them on
3 the plates with condiments, napkins, things of
4 that nature.

5 Q: But -- but when they get to you are they cold
6 or warm? When you get them from -- from the
7 establishment, what's the name of the
8 establishment?

9 A: It's Village Idiot Pizza.

10 Q: Village Idiot. Does the Village Idiot deliver
11 to you cold or warm?

12 A: We actually go and pick it up at the Village
13 Idiot ---

14 Q: Do you pick it up cold or warm?

15 A: It is warm I think.

16 Q: Okay. So it'd be like me going to, where do I
17 go to get pizza, Mellow Mushroom, that's a --
18 that's a place I like to go whenever I'm
19 allowed to have pizza, and when I get it home
20 if I want to give it to a member of the family
21 or someone that's visiting, I warm it up,
22 right? Right?

23 A: I'm not sure how you prepare your ---

24 Q: I mean, if I ---

25 A: --- pizza.



1 Q: --- warmed it up, would I have prepared that
2 pizza, in your opinion?

3 A: No.

4 Q: Okay. But that's what you're doing, isn't it?

5 A: No, sir, it's not.

6 Q: I mean, I warm it up for my guests, I put it on
7 a plate, I give them a Coca-Cola.

8 A: We are taking a community staple in the Village
9 Idiot Pizza and having a partnership with them
10 to increase their sales as well as our sales.

11 Q: But that is something that is prepared offsite,
12 correct?

13 A: It is initially cooked offsite, but the final
14 preparation is done in the house.

15 Q: And the final preparation, warming it if it
16 needs warming and putting it on a plate; is
17 that right?

18 A: It's keeping it to temperature and serving it
19 to the customers.

20 Q: Okay. And what percentage of that 2,000 bucks
21 a week is pizza?

22 A: It varies every week.

23 Q: Give me an average.

24 A: It can be anywhere from 30 to 40 percent to 50
25 percent. It depends on the week.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: Okay. 30 to 40, 50 percent of your food sales
2 is this food that's prepared offsite?

3 A: 30 to 40 percent of food sales is Village Idiot
4 Pizza.

5 Q: Which is prepared offsite?

6 A: It is cooked offsite.

7 Q: Okay. Now, let me walk you through a couple of
8 other issues and the -- I think you testified
9 when you started up in December that you, the
10 way that you would buy your liquor would be to
11 give a postdated check to the liquor
12 distributor and he'd hold it for a week before
13 ---

14 A: That is not correct.

15 Q: Well, what did you do?

16 A: We gave them check on delivery.

17 Q: Right.

18 A: There were funds in the account at that time
19 and we usually would have the check clear on
20 Monday, and to my understanding from what I
21 have looked into after the deposition, they
22 were depositing the checks on Friday and it was
23 showing up in the account on Monday.

24 Q: Okay. Then, sir, please go to Page 31 of your
25 deposition.



1 **THE COURT:** Can you hold on just a minute. Let me
2 make sure that I understand the answer first.
3 So when did you actually receive the liquor?

4 A: It varied, but usually it was on either a
5 Tuesday, a Wednesday or a Thursday.

6 **THE COURT:** Okay. And you were giving the
7 distributor a check dated as of the date of
8 delivery?

9 A: Yes, ma'am.

10 **THE COURT:** But you're -- you anticipated that they
11 would not actually cash the checks until the
12 following Monday?

13 A: We had noticed that the majority of the checks
14 wouldn't go through until Monday, but it's to
15 my knowledge that they would normally deposit
16 them on a Friday and then it would take that
17 business day for the transition from Bank Of
18 America to whoever else's bank for it to show
19 up.

20 **THE COURT:** All right.

21 Q: Now, Mr. Bland, that's not what you testified
22 to last week, is it?

23 A: That is what I thought was correct at the time,
24 but after talking and reviewing my
25 conversations, it was actually about when the



1 date of the check payroll occurred.

2 Q: Did you bring any of those checks today?

3 A: No, sir.

4 Q: Okay. Let me -- let's -- let's see what you
5 said last week. Question, this is page -- I'm
6 sorry, Page 31. Go to Page -- you got Page 31
7 in front of you?

8 A: Yes, sir.

9 Q: Question on line 12, What other expenses did
10 you have in opening? And you responded?

11 A: I responded with, Inventory.

12 Q: Question, You had to buy inventory? Answer?

13 A: I responded, A lot of it is given and they will
14 hold checks until the following week.

15 Q: Question, So the alcohol wholesalers front the
16 liquor to you? Your response is?

17 A: I responded at that time, Essentially.

18 Q: Essentially. And then I questioned, And then
19 you pay them? And your response was?

20 A: Monday.

21 Q: And my question was, Monday, is that a normal
22 process for the bar that wholesalers give you
23 alcohol for free and then you pay for it later?
24 Your answer is?

25 A: It's not for free. They just hold our checks



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 if we ask them to, and it says that, Usually
2 it's a one or one time occurrence.

3 Q: And I questioned, Do you write a check to them
4 and they agree to hold the check? Your answer
5 is?

6 A: At that time I responded, Uh-huh.

7 Q: Yes. That would be a yes?

8 A: Yes.

9 Q: For how long? And you say?

10 A: Usually until Monday.

11 Q: Question, Could it be more than until -- until
12 that Monday? Answer?

13 A: I have never asked them to, but it is possible.

14 Q: Question, So when do they deliver the liquor,
15 what day?

16 A: Normal is Tuesday or Wednesday.

17 Q: Question, Tuesday or Wednesday you write them
18 a check for which they hold until the following
19 Monday, right?

20 A: If asked.

21 Q: Question, If asked, and you've asked them to do
22 that?

23 A: I said, Yes.

24 Q: Question, When you started up, you asked them
25 to do that?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 A: Yes.

2 Q: And was there insufficient funds in the bank
3 account at the time you wrote the check -- I
4 want to make sure I get it right, whether --
5 let me repeat that. It is 32, And there were
6 insufficient funds in the bank account at the
7 time you wrote it to cover the check, right?

8 A: Line -- yes.

9 Q: Line 5, you said what?

10 A: Yes.

11 Q: So you wrote them a check expecting to have the
12 money the following Monday and you did?
13 Answer?

14 A: Yes.

15 Q: Question, That's the sort of a business plan to
16 do that?

17 A: Yeah.

18 Q: Question, And you do that routinely?

19 A: Not anymore.

20 Q: You did initially?

21 A: When we were bootstrapping, yes.

22 Q: Okay. So you told me that you were giving them
23 checks for which there was insufficient funds
24 ---

25 A: At the ---



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: --- correct?

2 A: At the time that is what I was under the
3 influence.

4 Q: Well, what -- I know ---

5 A: But I -- I went -- I went and looked through
6 the bank accounts and we did have sufficient
7 funds. They did not hold the checks. It was
8 just that when asked the dates that the checks
9 were hitting it was Monday.

10 Q: Well, you were concerned enough about this to
11 go check it out, right, after your deposition.

12 A: After reading through. I mean, I was under
13 oath, of course, I'm concerned. I want to make
14 sure that the factual information is -- is
15 given.

16 Q: And you could look at your books and your
17 checks and determine that what you testified to
18 last week was wrong, correct?

19 A: At the time I thought it was right ---

20 Q: But ---

21 A: --- but ---

22 Q: --- now you know it's wrong.

23 A: --- but looking through it, it is not correct.

24 Q: Did you give those documents to Mr. Montgomery,
25 the checks and the -- and the check register so



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 that we could all look and see what date it was
2 written and what day it was cashed in your bank
3 account to see if you had sufficient funds?

4 A: It was not asked of me to provide those
5 documents.

6 Q: So the Court has two stories from you under
7 oath, one is you kited checks and the other one
8 you didn't, is that right?

9 A: That's not correct.

10 **MR. MONTGOMERY:** Object to the characterization.

11 **MR. HARPOOTLIAN:** Well, I mean, Your Honor, with all
12 due respect, if one writes a check for which
13 there's insufficient funds and expects it not
14 to clear before they have funds in there, I'm
15 just an old prosecutor, but we call that kiting
16 checks. Is there -- and I may -- I mean,
17 that's -- it's a crime and it's ---

18 **THE COURT:** What's the basis of your objection, Mr.
19 Montgomery?

20 **MR. MONTGOMERY:** Your Honor, my understanding is
21 that kiting checks is moving it between two
22 accounts of the same owner. Kiting checks is
23 -- what he's referring to is the flow of a
24 check, not kiting a check as I understand it.

25 **MR. HARPOOTLIAN:** Well, I would call it kiting, he



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 can call it floating. It's frowned upon and
2 the statute prohibits it, and we'll talk about
3 that a little bit later.

4 Q: So last week under oath you said one thing,
5 this week under oath you say something else and
6 you say you went and checked it out, but you
7 brought nothing to this court to show that
8 you're telling the truth today; is that
9 correct?

10 A: I was not asked to bring anything.

11 Q: Okay. Well, I -- you know, you're not my
12 client. You didn't think to show it -- did you
13 show it to your lawyer?

14 A: I did not.

15 Q: Okay. So the only one that knows that is you;
16 is that correct?

17 A: That's correct at this point.

18 Q: Now, let me get back to a couple of issues that
19 I'm not quite sure -- a minute ago we saw a
20 note from an entity for \$150,000, not from but
21 to an entity for \$150,000, correct? Mr. Wells'

22 ---

23 A: There's a note ---

24 Q: --- LLC.

25 A: --- to DHW Purchasing Group.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: Okay. And that's the same entity you say now
2 that you got \$20,000 from.

3 A: That entity did owe me \$20,000 that was paid.

4 Q: Okay. It wasn't a loan, it was paid. And what
5 -- what did they owe you for?

6 A: It was previous work.

7 Q: At the Pour House?

8 A: Yes, sir.

9 Q: And you also indicated a little while ago --
10 well, not -- last week, that your \$150,000 in
11 equity, part of that was the money Mr. Wells
12 owed you for working at -- at the Pour House,
13 correct?

14 A: There is not \$150,000 in equity.

15 Q: I mean 100 -- 125,000, I apologize. 125,000
16 you even testified numerous times last week was
17 composed of two basic components, one the money
18 that Mr. Wells owed you for working at the --
19 at the Pour House that he promised you, he
20 never paid you, right? That's what you
21 testified to.

22 A: It was -- the debt was paid into the company,
23 yes, sir.

24 Q: Okay. The debt he owed you was paid into the
25 company?



1 A: It was paid to me through a 1099 and I used
2 that ---

3 Q: I'm not talking about the 20. I'm talking
4 about -- you had \$125,000 in equity that you
5 say that you put into the Roost. You testified
6 last week that you didn't put any cash in.
7 Were you wrong last week?

8 A: It was \$20,000 that I put in. There was
9 another \$10,000 that was initially going to be
10 for startup cash at the Rooftop, but due to the
11 way that the financial -- the financing there
12 ended up working out, we did not need that
13 there so that was used as operating cash for
14 the Roost.

15 Q: Okay. So you -- you did not remember that
16 \$30,000 last week; is that correct?

17 A: As I said, I did not know that I needed to have
18 all of these financial books in my head. I
19 have a lot of things going on running both of
20 these bars and I'm embarrassed, but I don't --
21 I was not concerned with the exact details of
22 how that was going through. I knew that I was
23 getting a good deal, I trusted the parties, I
24 trusted my counsel, I trusted my CPA and I just
25 wanted to get the deal done and move forward.



1 Q: So you forgot last week about \$30,000?

2 A: No, sir.

3 Q: Well, I mean, I asked you several times did you
4 put any money in and you said no, correct?

5 A: I said that I put \$10,000 in it ---

6 Q: No.

7 A: --- and I also said there was a debt that was
8 put in.

9 Q: The debt that was put in was from Mr. Wells to
10 you for money he owed you for your work at the
11 Pour House, right?

12 A: It was from DHW.

13 Q: Well, that's Mr. Wells, right? He's the sole
14 owner?

15 A: He's the sole member of that entity.

16 Q: Okay. So when I -- I mean, when I say Mr.
17 Wells, it's Mr. Wells' entity owed you money
18 for your work at the Pour House, you never got
19 paid for it and I think you're very explicit
20 that that 125 you put in, you never mentioned
21 any cash, did you?

22 A: Where?

23 Q: In your deposition did you say that you put
24 \$10,000 or \$20,000, you, into the Roost? Did
25 you say that or not?



- 1 A: I said that there was the debt that -- the debt
2 and the sweat equity was the primary -- the
3 primary things in the evaluation of the 150-.
- 4 Q: And how much was the debt that -- that the Pour
5 House -- or the entity that Mr. Wells owned,
6 how much was the debt he owed you?
- 7 A: That was \$20,000.
- 8 Q: That's it?
- 9 A: Yes, sir.
- 10 Q: Nothing above that?
- 11 A: Correct.
- 12 Q: When I asked you to portion that last week
13 between the debt and sweat equity that had been
14 put in, did you mention anything about \$10,000
15 or \$20,000?
- 16 A: I'm not exactly sure.
- 17 Q: Let me -- let me -- okay. Let me find it.
18 Okay. How about go to Page 24. Now, tell me
19 what DEO is. I'm asking you. It's not in
20 here. Tell me what DEO is.
- 21 A: DEO is the entity that I am the sole member of.
- 22 Q: And that -- that meant that DEO owes what piece
23 of the Five Points Roost, LLC?
- 24 A: DEO is a 25 percent interest.
- 25 Q: Okay. Now -- and I asked you on Line 21, no --



1 nobody else owns any other piece of DEO, you're
2 the sole owner of it? Your answer?

3 A: That's correct.

4 Q: You said, Yes, right?

5 A: Yes.

6 Q: And then question, And put \$125,000 into this.
7 You say?

8 A: That was previous paid debt that Daniel Wells
9 owed me.

10 Q: Okay. And -- and then on Page -- going on to
11 Page 25, question, Previous paid that Daniel
12 Wells owed you. Explain that to me. Go ahead.
13 Read your answer.

14 A: Me and Dan were under negotiations and we hadn't
15 finalized it yet, but he was going to give me
16 25 percent of Pour House in lieu of general
17 manager salary.

18 Q: Okay. Question, And this \$125,000, what did
19 you get for that? Your -- your answer was ---

20 A: What?

21 Q: --- What? My question was, I'm sorry, did he
22 owe you \$125,000? And your question -- your
23 answer was what?

24 A: Yes.

25 Q: He owed -- question, He owed you 125,000 for



1 Pour House, from the Pour House? Answer?

2 A: It was debt, yes.

3 Q: Question, It was debt for salary?

4 A: It was in lieu of.

5 Q: Question, In lieu of a salary. So I'm trying
6 to -- I'm not a business lawyer so I'm going to
7 have to get a little basic here. So when the
8 Pour House shut down, he owed you \$125,000?

9 A: It says nodding head.

10 Q: That would be a yes? You meant yes?

11 A: Yes.

12 Q: I mean, I -- my question was right and then you
13 said yes. Question, I'm sorry, you got to say
14 yes or no. And then you put this \$125,000 as
15 your contribution to the Roost, LLC? Your
16 answer was?

17 A: Yes.

18 Q: Was there any -- did you put \$125,000 in cash
19 in? Answer?

20 A: No.

21 Q: Did you put any assets in, I'm talking about
22 fiscal assets? Answer?

23 A: No. It was sweat equity.

24 Q: Question, so what's -- and you say sweat
25 equity. Question, Sweat equity for what you've



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 done at the Pour House?

2 A: And ---

3 Q: And what's your response?

4 A: And for what I was doing with the current
5 company.

6 Q: Question, Well, how much did he owe you from
7 the Pour House? You answer was?

8 A: I'm not exactly sure. We never got it
9 finalized, but I know that this was what was
10 given to me because I was going to be the
11 person putting 90 hour weeks in, plus the debt
12 that I was owed.

13 Q: Okay. And let me -- let me -- question on Page
14 27, Line 2, Who was giving you that? Who gave
15 you that -- who gave you that \$125,000?

16 A: I said, Nobody gave me \$125,000.

17 Q: Question, Who gave you the value of the
18 \$125,000? Who said we'll let you put this in
19 for 125 grand in for a 27.778 percent interest?
20 Who said that?

21 A: That was me and Ms. Wells.

22 Q: Me and Ms. Wells?

23 A: Yes.

24 Q: That would be his mother?

25 A: Yes.



1 Q: Question, Okay. Answer, As well as when it was
2 -- before that there was another gentleman.
3 And I question, Who was that. You say, George
4 Phillips. Now, these answers you would agree
5 with me, are distinctly different than what
6 you've told the Court here today, correct?

7 A: As I stated before, I was not prepared for
8 these financial questions. I had not delved
9 into contracts. I trusted my counsel, I trusted
10 my CPA to make the right decision and I was
11 happy that I received the percent interest that
12 I did. And at this time I was just happy that
13 we were actually able to move forward and get
14 opened and start with the renovations.

15 Q: You would agree with me you told me last week
16 you put no cash in?

17 A: That is what I thought at the time.

18 Q: Okay. And you would agree with me that last
19 week you indicated Mr. Wells owed you a
20 substantial amount of money, more than \$20,000,
21 correct?

22 A: I said ---

23 Q: That's what you said last week.

24 A: I said that we were still in negotiations.

25 Q: No. You were still in negotiations when the



1 courthouse shut down. You weren't still in
2 negotiations last week, were you?

3 A: No, sir.

4 Q: Okay. And last week you said that Mr. Wells
5 owed you a bunch of money. He had -- you never
6 mentioned he paid you any money and only today
7 do you come up with this \$30,000. Did you
8 bring copies of those checks?

9 A: I did not. I can provide them to you ---

10 Q: Did you bring any document, evidence, saying
11 that what you're saying to the Court today is
12 truthful as opposed to what you told me under
13 oath last week, a single document?

14 A: I was not aware when I gave the deposition that
15 those were the actual facts. As I said, I was
16 not versed in the fine details of how this
17 worked. I just know that when the contract was
18 struck that they got it to where my interest
19 and debt that was owed from DHW went directly
20 into my 25 percent, that I was happy with
21 having 25 percent and I wanted to get on to
22 operations.

23 Q: Okay. So let me ask you this, the debt you
24 were owed by Mr. Wells -- Mr. Wells paid for,
25 substantially paid for, your interest, your 27



1 percent, in Five Points Roost, LLC, right?

2 A: The debt was added for operating capital as
3 well as the remodel but the value of the
4 125,000 is also including me as the managing
5 party.

6 Q: Now, you -- didn't you graduate from business
7 school not -- not so long ago, two years ago?

8 A: Two and a half years.

9 Q: Two and a half years ago. Business school at
10 the University of South Carolina, correct?

11 A: Yes, sir. I graduated ---

12 Q: Magna Cum Laude?

13 A: --- from the University of South Carolina.

14 Q: Magna Cum Laude?

15 A: Yes, sir.

16 Q: Okay. And you're a Magna Cum Laude graduate of
17 business school and you don't recollect someone
18 giving you \$30,000? I mean is that irrelevant
19 money to you now that you're the big time bar
20 owner in Five Points?

21 A: No, sir.

22 Q: Is that just something you don't remember?

23 **MR. MONTGOMERY:** Your Honor, I object to the form,
24 it's argumentative.

25 Q: I'll strike that question. Let me go back.



1 **THE COURT:** Thank you, Mr. Harpootlian.

2 Q: Is \$30,000 an amount you can forget pretty
3 easily, it's not relevant to you?

4 A: I did not say that I forgot it. I said that I
5 knew that with the percent that I was allocated
6 in the Five Points Roost, LLC, that I was happy
7 with whatever I -- whatever had transpired and
8 whatever had been agreed upon by the lawyer and
9 by the CPA.

10 Q: Who -- who agreed to give you that 27 percent?
11 Who had the say you get 27 percent?

12 A: That was negotiated with -- with the lawyers.

13 Q: What lawyers?

14 A: With Mike.

15 Q: With Mike. You negotiated with your lawyer?

16 A: No. Mike was the intermediary ---

17 Q: Between?

18 A: --- for the purchase.

19 Q: Okay. From who?

20 A: DHW Purchasing Group.

21 Q: Okay. And Mike was also their lawyer, right,
22 Mr. Wells' lawyer?

23 A: Yes, sir.

24 Q: Okay.

25 A: We had decided to use a mutually beneficial



1 lawyer that would obviously be fiscally
2 responsible, would save money as well as it
3 would get the deal done as fast as possible so
4 that we can move on and get with actually
5 operating the business.

6 Q: So the money that Mr. Wells owed you, Mr.
7 Montgomery negotiated as part of your equity in
8 the new business, correct?

9 A: The money that DHW paid me was put directly
10 into the Five Points Roost, LLC, on behalf of
11 the DEO, LLC including the \$10,000 that I
12 liquidated my mutual funds with for operating
13 ---

14 Q: Sir, I want you to listen to my question
15 because you're not answering it in my opinion,
16 that's just my opinion. Maybe -- maybe I'm
17 missing something here. You testified last
18 week, no cash. This week you say cash, but
19 it's \$30,000. What's the other \$120,000 for?
20 Is that -- is that in any way related to money
21 that DHW or D -- whatever it is owed you, Mr.
22 Wells' LLC owed you, any part of the remaining
23 120?

24 A: That 125,000 was evaluation including my -- my
25 agreement to be the managing party.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: With who, who'd you have an agreement with?

2 A: The other members of ---

3 Q: So -- so Mr. Ruonala and Mr. Wells' mother
4 determined that you were going to be the
5 manager?

6 A: Yes. The members of Five Points Roost, LLC.

7 Q: Okay. How many times have you talked to Ms.
8 Wells in the last year? How many times per
9 year have you talked to her?

10 A: On average it was just about one -- one or two
11 times, usually one.

12 Q: A year?

13 A: Yes, sir.

14 Q: Okay. So in terms of negotiating with Mr.
15 Wells' mother, who handled those negotiations?

16 A: From what I believe it was a financial advisor
17 in ---

18 Q: Did you do any of it?

19 A: --- in Massachusetts.

20 Q: Did you negotiate with her directly?

21 A: I did not.

22 Q: Okay. And she got 60 something percent of Five
23 Points Roost, LLC, correct?

24 A: She -- through financing, through repurchase of
25 equity, yes, sir, she -- she was ---



1 Q: Okay. Now -- okay. I'm sorry, I did not get
2 a Magna Cum Laude in Business from USC so
3 you're going to have to explain this to me a
4 little bit and then we're going to compare it
5 to what you testified to last week. Her -- and
6 let me -- maybe I need to go over the document
7 to make sure I'm not misquoting something.
8 Here we go. On Page 60 of the -- it's not
9 that, not the deposition, but of Exhibit Number
10 1 which was introduced by the DOR, which is the
11 submission to the DOR, you indicate that DEO
12 Investment ---

13 **THE COURT:** That's today's Exhibit 1?

14 **MR. HARPOOTLIAN:** Yes, ma'am.

15 **THE COURT:** Okay.

16 Q: --- you indicate that DEO Investments, LLC, at
17 Oxfordshire Lane in Mount Pleasant has 27.778
18 percent that says capital contribution value
19 \$125,000, right?

20 A: (No verbal response.)

21 Q: I don't think you have it in front of you. Do
22 you have it in front of you ---

23 A: I'm not sure.

24 Q: --- Exhibit Number 1? Okay. Let me show it to
25 you to refresh your memory. Do you remember



1 that (indicating)?

2 A: Yes, sir. It's capital contribution and value.

3 Q: Value, right. And then BG Holdings, LLC, 91
4 Pelham Island Road Sudbury, Massachusetts, as
5 \$312,500, right, at 69 percent?

6 A: Yes. And no capital contribution value.

7 Q: Right. And Mongo has got .2.77.

8 A: That is correct.

9 Q: Now, when I had talked to you last week, you
10 didn't -- you said Mongo, that would be Mr.
11 Ruonala over there put cash in. Do you
12 remember how much?

13 A: I'm not sure.

14 Q: You're not sure, okay. Now, BG Holdings you
15 told me last week put no money in; is that
16 correct?

17 A: Initially when I -- when I gave the deposition,
18 that's what I thought, but ---

19 Q: What did you put -- how much did you put in?

20 A: After reviewing the documents, once Rooftop
21 came into the picture a lot of the operating
22 capital that was going to be used for Roost
23 ended up being used for Rooftop, so she put in
24 45,000 to finish the renovation of Roost.

25 Q: Well, where did she get the other -- I mean it



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 was \$312,500 here, what -- what's the rest of
2 45 -- I went to Clemson so these are tough
3 numbers for me to do, but if you subtract
4 \$45,000 from \$312,000, it's somewhere around
5 \$360 -- I mean \$260,000, right?

6 A: I'm not sure. Yes. But, as I said, I mean, I'm
7 not exactly sure the entire debt that was --
8 that -- DHW or that Daniel Wells personally
9 owed his mother, but I do know that when it was
10 negotiated that it was going to assume the debt
11 and it was going to essentially allow for the
12 deal to even happen and that she would get paid
13 back by repurchasing on me and Adam's behalf,
14 we would repurchase her interest to the tune of
15 where we would eventually own 90 percent.

16 Q: But that's not in the LLC Agreement, is it? We
17 looked at it during your deposition. There's
18 nothing in there about you having the right to
19 repurchase her interest, right?

20 A: We do have the right to repurchase.

21 Q: Is it in the LLC Agreement?

22 A: I'm not sure. I'm ---

23 Q: We looked at it last week when during your
24 deposition. Do you want to look through it
25 now? Let's look through it now. Let me -- let



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 me just take a minute. Well, let me move on
2 and then we'll come back to it before you
3 finish. So right to repurchase, if it's in the
4 LLC, you'll have you find it for me, but at --
5 she gets 312,500 you said to assume the debt
6 that was owed by Daniel Wells to her; is that
7 right?

8 A: It was a personal loan from -- from Ms. Wells
9 to -- to Daniel, yes.

10 Q: Okay. But I guess what I don't understand is,
11 why do you give her value in Five Points Roost,
12 LLC, to satisfy a debt that was owed by her son
13 to her? What -- I don't understand why Five
14 Points Roost, LLC, wants to assume, in effect,
15 assume a debt that for Daniel Wells, what would
16 you get out of that? What -- what possible
17 interest does Five Points Roost, LLC, have in
18 paying back a debt from Mr. Wells, who ran the
19 Pour House, to his mother, tell me what you got
20 for that?

21 A: We got the ability to move forward with the
22 deal, there was ---

23 Q: What's the -- I don't understand what the deal
24 is. What -- I don't see anything in these
25 documents except a note from Five Points Roost



1 to Mr. Wells' entity for \$150,000. What --
2 move forward with what deal? I don't
3 understand what the deal is.

4 A: It was an extremely fluid situation. We've had
5 investors coming in, we had investors dropping
6 and there was a point where we thought that we
7 were not even going to be able to conclude the
8 deal ---

9 Q: What's the deal?

10 A: The asset purchase.

11 Q: Okay. You paid \$150,000 for the assets.

12 A: That's right.

13 Q: Okay. So why do you assume Wells' -- I mean,
14 in fact, you're giving somebody the value of
15 what he owes his mamma. His mama is basically
16 transferring that debt to you, isn't she?

17 A: She is getting paid back for the debt. It is
18 not transferring to us. She is getting ---

19 Q: Well, but I mean ---

20 A: --- the equity.

21 Q: She's got equity worth \$312,500, she puts the
22 money in and then the rest of it, is you're
23 gonna -- if profits come up, you're going to
24 pay her back what her son owes her, right?

25 A: The value is through business was close to ---



1 Q: Could you answer yes or no and then explain?

2 You agreed to pay his mother the debt he owed

3 her out of the profits of Five Points Roost; is

4 that correct? Just yes or no. Just yes or no.

5 A: The ---

6 Q: Yes or no.

7 A: Can you repeat ---

8 Q: Just say ---

9 A: --- the question?

10 Q: Did you agree -- Five Points Roost -- you as

11 the managing partner agree to pay the debt that

12 -- that Wells owed his mother out of the

13 proceeds of Five Points Roost?

14 A: The debt, yes. That is why she -- she received

15 the equity because of the -- the personal loan

16 that Daniel Wells gave to her.

17 Q: Why would you agree to undertake or assume the

18 debt Daniel Wells had to his mom, why?

19 A: At that time we valued the business at around

20 \$450,000.

21 Q: Okay. What are you buying from him? You're

22 buying the stools, you're buying the tables,

23 they worth \$450,000? Did you have them

24 appraised?

25 A: That location ---



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: But ---

2 A: --- the previous revenue ---

3 Q: Okay. Okay. Did he own the building?

4 A: He did not.

5 Q: Did he own the building?

6 A: He did not own the building.

7 Q: Did you open something called the Pour House?

8 Did you -- did you buy the right to call
9 yourself the Pour House?

10 A: We -- it was an asset purchase.

11 Q: Sir, answer the questions and we can get this
12 done a lot quicker. Did you buy the right to
13 call yourself the Pour House?

14 A: We did not.

15 Q: Okay. Did you -- what did you buy from him
16 other than some tables and chairs that you have
17 no idea what the value is -- as a matter of
18 fact you had to remodel the place, right?

19 A: Yes.

20 Q: Okay. So what is it you bought from him that
21 was worth \$450,000, what was it? He didn't own
22 the building, he had a one year lease at half
23 the rate you ended up paying and he -- I mean
24 having -- I mean you apparently said you turned
25 the license in. Did he -- did you pay for the



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 license?

2 A: The license is an asset.

3 Q: Okay. His license was an asset?

4 A: Yes.

5 Q: Okay. And so you bought the license?

6 A: We turned the license into the DOR.

7 Q: Yeah. But you bought it, you had to own it to
8 turn it in, right? That's part of the
9 \$450,000, isn't it?

10 A: I'm not sure if that's, if it's a purchasable
11 thing, but we did have to turn it in to the DOR
12 when we were ---

13 Q: Once you didn't have a business license you
14 couldn't operate anymore, correct?

15 A: He could not operate at that location anymore.

16 Q: Right. So what you -- so the license had no
17 value. I'm trying to figure out what you paid
18 \$450,000 for unless it's -- I mean does Mr.
19 Wells, he's got a beneficial interest in the
20 Roost, does he not?

21 A: He does not.

22 Q: Okay. He's got a note for \$150,000, right?

23 A: He does have a note, yes.

24 Q: Okay. And he had his, whatever he owed his
25 mother you're paying, right?



1 A: The entity is paying.

2 Q: Well, but I'm talking about the Five Points
3 Roost.

4 A: Yes.

5 Q: Okay. I'm not talking about you personally.
6 But -- so the -- the more profitable the Roost
7 is the quicker he gets his money back?

8 A: The quicker that he is paid the Note. It is
9 after a year and then his mother obviously will
10 get paid, made whole on the loan, but the
11 primary objective was that me and Adam will be
12 able to be 90 percent owners of the business
13 and we're able to do it without going out and
14 getting a half million dollar loan or having to
15 get other investors, which were not available
16 at the time.

17 Q: Okay. What did you need to open the place, how
18 much money? I think we talked about the fact
19 that there was some issue about you buying
20 liquor and beer. \$20,000 to refurbish, what
21 else?

22 A: Well, it -- it was originally was -- was
23 \$20,000 after looking through every single
24 Lowe's receipt, everything like that, it was
25 closer to 80 ---



1 Q: Okay, 80.

2 A: --- but -- but we needed operating income and
3 then a lot of it is just a lot of sweat equity,
4 opening accounts, taking ---

5 Q: I'm not talking about sweat equity. I'm
6 talking about what cash did you need to open
7 the business?

8 A: I do not have that infor -- I'm ---

9 Q: Less than \$100,000?

10 A: I would have to look at that, look at
11 everything from ---

12 Q: I guess I'm getting back to, why give Mr. Wells
13 basically a lien on Five Points Roost? What is
14 it that he gives you, and don't say an asset
15 purchase, we've gone over that? What is it?
16 Are you buying -- I mean is he -- is he -- he's
17 got a -- obviously has a financial interest, he
18 got a note, he's got his mom's going to get
19 paid off his loans, but what is it -- I don't
20 -- I get back to what is it that you paid him
21 or took over his note \$150 plus, or whatever he
22 owes his mom, 200 and something thousand
23 dollars apparently, maybe, I don't know. How
24 much do you owe her now?

25 **MR. MONTGOMERY:** Your Honor, I've just -- been very



1 patient on this line of questioning, but, I
2 mean, I think it's, A, asked and answered and,
3 B, we're dealing with some relevance here. I'm
4 not sure how this is relevant to the issues
5 before the -- before the Court.

6 **THE COURT:** Well, I -- I find it to be relevant and
7 I don't find it to be asked and answered. It's
8 been asked but it hasn't been answered.

9 **MR. HARPOOTLIAN:** Thank you, Your Honor.

10 **Q:** So I'm just trying to get my arms around this
11 and I apologize if the Court is getting a
12 little frustrated. I'm looking at some numbers
13 here that last week -- and again, all I have to
14 go on is what you swore under oath last week,
15 of the \$125,000 you said you put no cash in,
16 today you say you got paid \$10,000 from Mr.
17 Wells' entity that he owed you and last week
18 you indicated he owed you substantially more
19 than that for money he had not paid you while
20 you were working at -- at the Pour House, so is
21 that right, the 10 grand, didn't pay you back
22 everything you were owed?

23 **A:** The 10 grand was what I -- what I had
24 liquidated. It was 20 grand.

25 **Q:** He owed you 20 grand?



- 1 A: That is what DHW ended up paying me that I put
2 into the Roost ---
- 3 Q: Okay. Let's ---
- 4 A: But ---
- 5 Q: Okay. What -- how much money did he owe you,
6 and let's see what you said last week. How
7 much money did he owe you from your work at the
8 Roost?
- 9 A: We were still negotiating. We hadn't come to
10 terms yet.
- 11 Q: Well, tell me now. What -- what did you think
12 you were owed, apparently close to \$100,000 is
13 what you said last week.
- 14 A: Exactly. That's -- that's what I assumed, but
15 I think that when we were trying to get the
16 deal done, all that I -- all that I was
17 concerned about was moving forward and getting
18 my percentage in the new company.
- 19 Q: Okay. You thought you were owed a 100- and you
20 took how much from him, 10-?
- 21 A: It was 20-.
- 22 Q: 20-. And did you put all 20- into the
23 business?
- 24 A: Yes.
- 25 Q: Okay. So you took an 80 percent haircut from



- 1 Mr. Wells to get the money; is that right?
- 2 A: I'm not sure what you mean by that.
- 3 Q: Okay. You took 20- when you were owed 100-?
- 4 A: Well, what I really got was, as I keep saying,
- 5 is the ability to get the new interest in the
- 6 business and move forward and operate.
- 7 Q: Well, you could -- I mean there was nowhere
- 8 else you could get 20 grand?
- 9 A: No.
- 10 Q: Okay. And I'm just trying to figure out -- so
- 11 the 20 grand you put in got you \$125,000 in
- 12 equity, is that it?
- 13 A: The 20 grand was part of that 125,000
- 14 evaluation, but a lot of that was the sweat
- 15 equity that I was putting in. I was putting in
- 16 80, 90 hour weeks ---
- 17 Q: Where?
- 18 A: --- to get this place open.
- 19 Q: Where?
- 20 A: What do you ---
- 21 Q: What place?
- 22 A: To get Five Points Roost open.
- 23 Q: Okay.
- 24 A: To get -- I've -- facilitated ---
- 25 Q: So that sweat equity and last week when you



1 told me that that money represented the company
2 -- you didn't put any cash in and you didn't
3 bring those checks today, but the \$125,000
4 represented money that was owed by Mr. Wells to
5 you, you're changing that today, is that
6 correct? That's just yes or no and I can move
7 on. I don't need the explanation.

8 A: Are you -- yes, I'm changing. I was not ---

9 Q: Okay. Fine. And BG Holdings which is his
10 mother, we -- we do agree that she gets
11 \$312,500 of equity in this company to -- for
12 y'all to take over the note, the loan that
13 Wells made with her, that he owed her, that's
14 money that Wells owes her, right?

15 A: Yes.

16 Q: Okay.

17 A: For that personal loan.

18 Q: And we have Mr. Ruonala at 2.77 percent, it
19 says 12.5. He certainly didn't put more than
20 12.5 in, did he?

21 A: I am not sure.

22 Q: Okay. Now, let me -- let me also understand
23 this, you worked you indicated in the
24 hospitality industry in Five Points for some
25 years, right? You worked as a bartender at



1 Sharky's?

2 A: Yes, sir.

3 Q: Where else?

4 A: There was Sharky's, there was Red Hots, I
5 believe that Knock Knock was another one that
6 was a part of Red Hots, then there was Social
7 in The Vista and then finally Carolina Pour
8 House.

9 Q: Okay. All those places -- I think we went over
10 this last week, all those places serve liquor
11 after 2:00 o'clock, correct?

12 A: Social did not.

13 Q: Social did not, but all except Social. All the
14 ones in Five Points served liquor after 2:00
15 o'clock?

16 A: Yes, sir.

17 Q: And you were working there as a bartender. I
18 don't think you ever a manager over any of
19 those places, right?

20 A: Correct.

21 Q: And you were ordered to serve liquor after 2:00
22 o'clock, were you not?

23 A: We thought that it was -- was the normal
24 practice.

25 Q: Right.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 A: Everyone did it in Five Points. The owners
2 obviously instructed us that that was the
3 practice, managers instructed us that that was
4 the practice.

5 Q: So you served liquor many, many times to many,
6 many kids after 2:00 o'clock in the morning at
7 all those bars including the Pour House?

8 A: No, I did not serve liquor past 2:00 after --
9 when I went to Social and learned that that was
10 the actual law, I did not serve liquor after
11 2:00 at the Carolina Pour House.

12 Q: Ever?

13 A: Correct.

14 Q: Okay. And -- and you were the manager there
15 for -- since 2/14?

16 A: No.

17 Q: No? I want to make sure I find this.

18 **MR. HARPOOTLIAN:** I apologize, Your Honor. I have a
19 stack of stuff and I misplaced it.

20 **THE COURT:** That's fine take your time.

21 **MR. HARPOOTLIAN:** Youth dominates again, Your Honor.
22 The DOR attorney has pointed out to me that I
23 handed him the exhibits, and she's right.

24 Q: Okay. So one of the exhibits in last week's
25 deposition is -- and let me show it to the



1 Court, please.

2 A: Sure.

3 Q: That would be Exhibit 7 from the deposition.
4 And in that is that your LinkedIn Page?

5 A: That was my LinkedIn page.

6 Q: Okay. And your LinkedIn page you say, Attended
7 University of South Carolina Darla Moore School
8 of Business, Carolina Pour House, University of
9 South Carolina Darla Moore School of Business,
10 Charleston, General Manager Carolina Pour
11 House, August 2014 to present.

12 A: That is what that says, yes, correct.

13 Q: Okay. Is that a lie? Is that a -- is that not
14 true?

15 A: It was not an intentional lie. It was a
16 project for my business administration class, I
17 created it in a day and obviously it's saying
18 through present shows you how much I use it.
19 That was not something that I -- that I applied
20 at jobs for or that I bolster. That is -- that
21 was a project for a class that I made. I was
22 not general manager at that time, but I hoped
23 to be eventually.

24 Q: It says, Led and motivated a team of employees
25 to keep the business running at maximum



1 efficiency. Was that true?

2 A: When I was manager, yes.

3 Q: No, no. I'm talking about in 2014.

4 A: I was not manager in 2014.

5 Q: Okay. Developed a superior workforce by
6 recruiting, selecting, orienting and training
7 staff members. Is that true in 2014?

8 A: I was -- no, I was not the manager.

9 Q: Maintained up to date business and took real
10 responsibility for the premise; is that true?

11 A: I was not a manager in 2014.

12 Q: Oversaw inventory management by forecast and
13 demand culminating in increased cash flow; is
14 that true?

15 A: I was not a manager in 2014..

16 Q: Improved product marketability and increased
17 profits by capitalizing on current market
18 opportunities?

19 A: No.

20 Q: And empowered employees to make critical
21 decisions by effectively communicating job
22 expectations; is that correct?

23 A: Not at that time, no.

24 Q: Okay. Now, you indicated last week that you
25 used this with the permission of -- you say it



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 wasn't true, but the manager of the Pour House,
2 the owner of the Pour House, Mr. Wells back
3 here knew you were using this as a marketing
4 tool for employment, did he not?

5 A: I said on my resumes that he allowed me to put
6 that I was and that was in order to, if I ever
7 did, look for the opportunity to find a job.
8 Actually, that was when -- actually that was
9 when -- when I graduated the 25 percent
10 negotiations that we had going on prevented me
11 from ever having to look for a job.

12 Q: But -- but -- and again, you gave me a very
13 long answer to a very short question. Did you
14 say on your resumes to perspective employers
15 that you were the manager of the Pour House
16 when you weren't?

17 A: Yes.

18 Q: Okay. And you said it online?

19 A: On that profile, yes.

20 Q: Right. And so -- and these are lies, they're
21 not true, isn't that correct?

22 A: It's not an intentional ---

23 Q: No. Well, I'm not -- is it a lie?

24 A: It's not an intentional -- I'm not trying to
25 trick someone into thinking that. This, like



1 I said, it was a project. I made it in a day.

2 I don't ---

3 Q: And yet later on you put it on resumes?

4 A: I haven't used it.

5 Q: Okay. Do you have a little problem with the
6 truth sometimes? It's not an intentional lie
7 like last week in depositions, those weren't
8 intentional lies?

9 A: Sir ---

10 Q: That would be a yes or a no...

11 A: It's not an intention lie. I don't ---

12 Q: Okay. So you sometimes have accidental lies?

13 A: No. At the time that's what I thought the
14 facts were.

15 Q: I mean, is it like stumbling over a brick, you
16 didn't mean to fall or tripping somebody, you
17 didn't meas to trip them, it was accidental.
18 These were accidental lies?

19 A: No, sir. At the time I thought that was the
20 truth.

21 Q: Okay. So let me -- okay. I want you to go
22 down -- I hate to belabor this point, but I
23 want you to go to Page 47, please.

24 **THE COURT:** Of Respondent's Exhibit 1?

25 **MR. HARPOOTLIAN:** Of the -- I'm sorry, of the



1 deposition.

2 **THE COURT:** Deposition, okay.

3 **MR. HARPOOTLIAN:** I'm sorry, Your Honor, I
4 apologize.

5 **Q:** And we'll go to Question on Line 7. And now
6 you've indicated that you did not have the
7 right -- I believe you testified here today
8 that you didn't have the right to do anything
9 with his liquor license, correct? Today, sir,
10 look at me.

11 **A:** I was looking at the question.

12 **Q:** Well, no. I want -- the question is, today did
13 you tell the Court that you didn't believe
14 you're paying any money for the transfer of the
15 liquor license; is that correct?

16 **A:** I said ---

17 **Q:** Is that what you said today?

18 **A:** --- I was not sure.

19 **Q:** No. What did you say today, sir? We can have
20 it read back, you're under oath. Did you say
21 you did not believe you had the right to
22 transfer a license?

23 **A:** I'm not exactly sure what you're ...

24 **Q:** Did you say that today?

25 **A:** The license ---



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 Q: That's all I want to know.

2 A: The license is transferred through an asset,
3 yes.

4 Q: Okay. So when you said on -- last week, on
5 Page 47, did it have any value at that point
6 after he turned in his license -- did it have
7 any value at that point other than the physical
8 assets, the TVs, the chairs and stuff? Answer?

9 A: I -- what question?

10 Q: Page 47, Line 9 you're answer would be?

11 A: Yes.

12 Q: And what was the value?

13 A: I believe half a million dollars.

14 Q: Question, Of what?

15 A: Of the right to transfer liquor license, the
16 right to have the lease.

17 Q: Question, so did you -- what was the answer?

18 A: The right to operate at that building.

19 Q: And then I asked you, So how -- did you pay Mr.
20 Wells anything for the liquor license, the
21 transfer of the liquor license. And you said?

22 A: No.

23 Q: How is it worth a half a million dollars?

24 A: I said it's the right to do it.

25 Q: Question, The right to do what?



- 1 A: The right to operate in that building.
- 2 Q: Okay. The right -- well, who owned the
3 building, did Mr. Wells?
- 4 A: I believe his name is Bobby Brown.
- 5 Q: Question, did Mr. Wells have a period left on
6 the lease?
- 7 A: The building was purchased after Pour House
8 closed.
- 9 Q: Was it purchased by Mr. Wells?
- 10 A: No. It was purchased by Bobby Brown.
- 11 Q: Did he have any interest in the building, Mr.
12 Wells?
- 13 A: No. No.
- 14 Q: Did he have the right to lease that building?
- 15 A: I'm not sure. I think that when Bobby bought
16 it the lease was either terminated or expired.
- 17 Q: Question, Okay. So I guess what I'm trying to
18 say is what's worth a half a million bucks?
19 Mr. Wells couldn't control whether he got a
20 liquor license or not, could he? Answer?
- 21 A: There being a previous bar there that allows
22 you to transfer the liquor license that's
23 essentially why that's valuable.
- 24 Q: Question, on, above on Page 48, Can Mr. Wells
25 stop you from getting -- from doing that?



1 A: No. But if you operated a business that's not
2 getting transferred, you have to reapply for an
3 ABL and it's a very long process.

4 Q: Did Mr. Wells transfer you the right, the right
5 to assume his liquor license or transfer his --
6 or transfer his liquor license? Answer?

7 A: When -- when we brought the DHW, yes.

8 Q: Is that in the agreement anywhere?

9 A: No. That's just buying the business.

10 Q: Question, That's an asset?

11 A: Yes, that's an asset.

12 Q: So you said last week that you were buying the
13 right to assume his liquor license or transfer
14 his liquor license; is that accurate?

15 A: Yes, sir. I believe that the liquor license
16 was an asset.

17 Q: I'm sorry?

18 A: Yes, it's an asset.

19 Q: It's an asset, okay. Now, let me ---

20 **MR. HARPOOTLIAN:** Your Honor, just give me two
21 seconds here, I think I've got almost to the
22 end. I just need to find this. Okay.

23 Q: Let me ask you this. Did -- did anybody ever
24 show you proof that Mr. Wells owed his money
25 that -- his mother that money? Was there a



1 note was there anything in writing?

2 A: As I said in the -- in the deposition, I have
3 never seen a note, but I have seen transfers
4 through bank account statements.

5 Q: When you worked at the Pour House?

6 A: Yes, sir.

7 Q: Okay. But you don't know whether she was
8 paying him money back he leant her or whether
9 she was putting money into the business and
10 loaning him money; is that right?

11 A: I'm -- yeah. I was not privy to that
12 information.

13 Q: So you agreed to give her 300 and some thousand
14 dollars without any proof whatsoever that Mr.
15 Wells owed her anything, correct?

16 A: I mean, as I said I ---

17 Q: Just a yes or a no, sir, and then we can move
18 on.

19 A: I trusted all parties involved, yes, sir.

20 Q: Okay. You trusted all parties involved. So
21 does that mean that you never saw a written
22 document indicating Mr. Wells owed his mother
23 a dime. Is that correct?

24 A: I have not seen that, no.

25 Q: Okay. Now, Mr. Wells operated the Pour House



1 and operated it so well it was -- the Chief of
2 Police served a nuisance notice on him,
3 correct?

4 A: I believe so, yes.

5 Q: And they were going to shut it down as a
6 nuisance, correct?

7 A: I don't think that they ever did declare it a
8 nuisance.

9 Q: They didn't declare it a nuisance because he
10 turned his business license in before they
11 could have a hearing, correct?

12 A: I believe he did turn his business -- yes.

13 Q: Right. Before they could have a hearing. But
14 whatever his conduct was had gotten the Chief
15 of Police at that location so upset he was
16 going to have the place declared a nuisance and
17 shut down; is that correct?

18 A: I -- I can't speak for the Police Chief, but I
19 -- I know that he was in the process of doing
20 it.

21 Q: Did you see conduct while you were working
22 there that would indicate to you that the place
23 was a nuisance?

24 A: I believe we had maybe 19 incidents. A lot of
25 those were extended hour permits that -- that



1 they believe we had, but for some reason that
2 lapsed, but I know that whatever statistic they
3 were claiming that there were 600 or 800
4 incidents is false, that whatever was getting
5 reported was the 800 block not 800 Harden.

6 Q: Well, did, I mean, Mr. Wells run a good
7 establishment? Did he run it legally and
8 appropriately in your opinion?

9 A: He did things right, but there were things that
10 he did not do that were right.

11 Q: But he did things right. What -- what didn't
12 he do right?

13 A: Serving liquor after 2:00.

14 Q: Okay. Other than that?

15 A: And then -- I mean that's really the main one
16 is serving liquor after 2:00.

17 Q: Did he ever get a ticket for serving liquor
18 after 2:00?

19 A: I don't know. I don't believe so, though.

20 Q: Right. So in terms of the Police Chief's
21 perception of him, it couldn't have been the
22 liquor after 2:00. So other than serving
23 liquor after 2:00 what else was it that Mr.
24 Wells did that you would find not acceptable,
25 with your standards what was it?



1 A: That's -- I mean the pricing possibly. I mean,
2 there's a -- a lot of people do the low pricing
3 too and that encourages bad behavior obviously
4 over consumption.

5 Q: Did he do anything to keep underage kids out?

6 A: He did have bouncers checking ID, but he did
7 not go through the extensive, obviously, steps
8 that we're doing to prevent it.

9 Q: How long were you manager of that place,
10 really, not ---

11 A: I think it was ---

12 Q: --- the one you made up but ---

13 A: --- I believe it was three months.

14 Q: Okay. During that three months did you operate
15 anything about -- did you get a machine to
16 check and see -- like the \$1,000 machine you
17 have now, did you get one of those?

18 A: I mean, I was just a manager. I wasn't able to
19 do purchases of \$1,000 for -- he was still the
20 owner, he still had the final say even though
21 I was -- I was running the -- the operations.
22 I would have loved to get one.

23 Q: Did you communicate that to him?

24 A: Not at the time, no.

25 Q: No. Okay. So let me take you to the LLC, Five



- 1 Points Roost, LLC, and show me in here where it
2 says that you can buy out BG Holdings, LLC.
- 3 A: I'm not sure if it's in that ---
- 4 Q: Well ---
- 5 A: --- operating agreement. I know ---
- 6 Q: Okay. Where would it be?
- 7 A: We have obviously amended it multiple times for
8 each time that we are repurchasing the equity
9 from her..
- 10 Q: So there's a document you have in your
11 possession that would show that -- that you
12 have an agreement to repurchase your interest?
- 13 A: I believe -- I believe Mike would have it. I'm
14 not 100 percent sure what documents he brought
15 here today.
- 16 Q: Okay. And she -- and when would she have
17 executed that document, after you submitted
18 this to the DOR?
- 19 A: I mean, that's been amended multiple times.
- 20 Q: What has been amended?
- 21 A: The operating agreement.
- 22 Q: Have you -- every time you've amended it, have
23 you submitted it to the DOR?
- 24 A: We had submitted it when it is required, that
25 is whenever principles change or something like

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 that and we were going to submit the -- the
2 finalized one because obviously it's changing
3 percentwise with us repurchasing the interest
4 constantly.

5 Q: Have you repurchased anything from her?

6 A: I personally have not, but ---

7 Q: Has ---

8 A: --- Adam has increased his position to 10
9 percent.

10 Q: He paid her money?

11 A: Yes, I believe so.

12 Q: Okay. So he bought her interest, part of that
13 312,500?

14 A: I'm not sure if it's -- that's -- I wasn't the
15 one purchasing it, I just know he's at 10
16 percent now.

17 Q: Okay. And whatever money he paid her would
18 have retired some debt owned by Daniel Wells to
19 her or Daniel Wells' LLC to her; is that right?

20 A: Yes. That was ---

21 Q: Okay.

22 A: --- that -- her equity was given to her based
23 on that loan.

24 Q: Okay. Now, let me check two other things real
25 quick. Now, you've indicated you had an oven



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 other than a microwave, or do you have a
2 microwave?

3 A: It's a -- it's a microwave.

4 Q: Okay. So when you get that pizza in to warm it
5 up, I do it, do you just microwave it?

6 A: Oh, no. We have a -- it's a commercial grade
7 pizza warmer built specifically for pizzas ---

8 Q: Okay.

9 A: --- it can hold three 22 inch pizzas in there.

10 Q: Okay. You had a distribution to Brenda Wells
11 to you and to Mongo. You -- I think you say
12 and you indicated you made a distribution. How
13 much was that?

14 A: I think after looking at it I think it was
15 8,000.

16 Q: Okay. And so Brenda Wells would have gotten 60
17 percent of that?

18 A: Yes. She got whatever -- yeah, I believe that
19 was what her current equity was at.

20 Q: And in some agreement somewhere that says her
21 312 comes down by that amount, or was there
22 interest?

23 A: It is -- well, it's only -- it's when it's
24 repurchased. She gets distributions just like
25 any other owner and we have, we -- obviously



1 when we purchase her interest she gets that
2 money.

3 Q: So with her 312, which was a loan from her to
4 her son doesn't have interest attached to it,
5 it's just ---

6 A: It's just equity, yes.

7 Q: Just that -- well, whatever he owes her
8 without, she's not charging him interest which
9 that means she's not charging you interest.

10 A: Yes, it just equity ---

11 Q: Okay.

12 A: --- just equity.

13 Q: Okay.

14 A: Exactly.

15 Q: Now ---

16 **MR. HARPOOTLIAN:** I beg the Court's indulgence for
17 just a moment, I think I may be done and it's
18 getting -- I'm getting hungry. Okay. Okay.
19 You got it?

20 **MS. SHIELDS:** It's there.

21 **MR. HARPOOTLIAN:** Okay. Peanut gallery, Your Honor.
22 They're dictating the questions to me.

23 Q: So just a couple to clean up. I think in your
24 deposition you indicated you didn't have a
25 stove; is that correct?



1 A: Yeah, we do not have a stove.

2 Q: Okay. And -- I think that's all I have.

3 **MR. HARPOOTLIAN:** Your Honor, I'd like to offer the
4 deposition, the original deposition as an
5 Exhibit.

6 **THE COURT:** Any objection?

7 **MR. MONTGOMERY:** Your Honor, I think that anything
8 he offers is adequately covered in his cross-
9 examination. I don't think it's appropriate to
10 have that. I think you can admit it into the
11 record or offer it as an exhibit.

12 **MR. HARPOOTLIAN:** Well, you ---

13 **THE COURT:** So what ---

14 **MR. MONTGOMERY:** It could be the Court's exhibit, I
15 don't --

16 **THE COURT:** --- what exactly of the basis of your
17 objection then?

18 **MR. MONTGOMERY:** My objection is that he's asked the
19 questions, had the opportunity to speak to the
20 witness, it's not customary the we put
21 depositions into the record.

22 **MR. HARPOOTLIAN:** Well, Your Honor, this deposition
23 contains a lot more than what I cross-examined
24 him on and I think it's important for the
25 Court, and again, as I understand it, this



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 court has wide latitude, and it's not hearsay
2 because the declarant is here. It is under
3 oath and I think that it -- it -- Your Honor,
4 in reviewing the record you're going to see the
5 part I impeached him with. And then there's I
6 mean plenty of other fodder in here to -- I
7 tried to get to the bottom of the matters a
8 week ago and apparently the sands have shifted
9 little bit since then. And I don't -- again,
10 I think you have wide discretion as to what to
11 take in -- take in to consideration in an ALJ
12 hearing, not limited to -- and hearsay is
13 admissible.

14 **THE COURT:** Okay. Anything from the Department on
15 the admissibility of the deposition?

16 **MS. SHIELDS:** It's -- it's our understanding that it
17 -- the introduction of a deposition for the
18 purposes of impeaching a witness is completely
19 acceptable. That's basically where we stand at
20 this point. We feel like that was the basis
21 for introducing it.

22 **THE COURT:** Okay. I'm going to admit it.

23 **MR. HARPOOTLIAN:** Thank you, Your Honor.

24 **MR. MONTGOMERY:** Thank you, Your Honor.

25 **THE COURT:** Has it been marked?



1 **MR. HARPOOTLIAN:** It has not. I'll have it marked
2 right now, and, Your Honor, it is the
3 deposition and the Exhibit's which are
4 attached. You mark it. Okay.

5 **THE COURT:** Once you have that marked let me know
6 what the number is.

7 **MR. HARPOOTLIAN:** That would be -- yeah, that's the
8 first one I've put in.

9 **THE COURT:** Okay.

10 **MR. HARPOOTLIAN:** Your Honor, I have two other
11 questions ---

12 **THE COURT:** Intervenor's Number 1 is admitted.

13 (Intervenor's Exhibit Number 1 was marked and
14 admitted for identification purposes.)

15 **MR. HARPOOTLIAN:** I -- can I go?

16 **THE COURT:** Yes.

17 **MR. HARPOOTLIAN:** Okay.

18 Q: You have two folks that manage the Roost,
19 correct?

20 A: They -- yeah, they're assistant -- they assist
21 me in managing, yes.

22 Q: And what are their names?

23 A: Colin Ellege and Eric Thompson.

24 Q: And prior to working for you, where did they
25 work?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 A: They have worked just like me in ---

2 Q: No, no. Initially -- just previous to working
3 for you.

4 A: Carolina Pour House.

5 Q: So they were Pour House employees and they were
6 -- what did they do at the Pour House when they
7 worked there?

8 A: They were bartenders at the time.

9 Q: Okay. Bartenders. So -- and you -- did you
10 ever observe them serving liquor after 2:00
11 a.m?

12 A: I didn't personally ---

13 Q: No, no. That's -- listen to my question,
14 please. Did you -- listen, did you ever
15 observe them serving liquor after 2:00?

16 A: No.

17 Q: Okay. Now, they -- they worked at the Pour
18 House, they were -- and they are actually the
19 day-to-day managers of -- of your -- of your
20 establishment at the Roost, correct?

21 A: Well, they're respective, but they both help me
22 run both, I mean it's a lot for what one person
23 to do.

24 Q: That and the Rooftop? We'll talk about the
25 Rooftop later on, but right now they alternate



- 1 between the Rooftop and the Roost, right?
- 2 A: Yeah, in assisting me with the inventory,
3 management and everything else.
- 4 Q: Are you there every night?
- 5 A: I'm there usually every Thursday, Friday,
6 Saturday ---
- 7 Q: Okay. That would not be every night?
- 8 A: Correct.
- 9 Q: You're open Monday, Tuesday, Wednesday,
10 Thursday, Friday, Saturday?
- 11 A: Yes. Thursday, Friday, Saturday are -- is what
12 is 99 percent of our ---
- 13 Q: Of your revenue?
- 14 A: Yep.
- 15 Q: Okay. But revenue doesn't drive management.
16 You're not there when you're not making money,
17 is that why they run the place when you're not
18 there?
- 19 A: No. It's just that usually there's less staff,
20 there's less patrons and I'm able to keep watch
21 over camera systems ---
- 22 Q: Of what?
- 23 A: --- to make sure that everything's going the
24 right way.
- 25 Q: Oh, you -- you have camera systems you watch



1 remotely?

2 A: Yes.

3 Q: Okay. But they're actually managing this --
4 these establishments -- this establishment in
5 your absence, correct?

6 A: They can act on my behalf, yes.

7 Q: What?

8 A: They can act on my behalf ---

9 Q: Right. So the ---

10 A: --- when it comes to dealing with ---

11 Q: Okay. Okay. So they're managing.

12 A: --- the employees.

13 Q: And let me ask you this, you said on your
14 direct that you let people bleed out of there
15 after 2:00 because it would cause some sort of
16 -- I don't know. What's the problem with
17 letting everybody shutting down at 2:00, what's
18 the problem?

19 A: I'm not sure if you've been down there on
20 Saturday night, but ---

21 Q: No.

22 A: --- it get's pretty aggressive. They ---

23 Q: What's pretty -- oh, wow. What's pretty
24 aggressive?

25 A: In the amount of people that are on the street



1 at one time.

2 Q: Okay.

3 A: It is every single bar having to shut at 2:00,
4 so obviously even if they're doing last call at
5 1:30, usually the majority of people are still
6 getting pushed out in the same time frame,
7 which is usually anywhere, obviously, 15 to 20
8 minutes.

9 Q: Does that create a problem?

10 A: There are obviously limited Ubers and stuff
11 like that, but it's mainly just a lot of people
12 in -- in an area.

13 Q: And that's on Saturday night because you can't
14 serve after 2:00 no matter what?

15 A: Yes, sir. The -- the extended hours permit
16 does not ---

17 Q: Allow you to serve ---

18 A: --- allow you to serve ---

19 Q: --- after 2:00 beer or -- and you're only
20 supposed to be serving beer and wine after
21 2:00, right?

22 A: Yes.

23 Q: Okay. So why don't you close at 1:30?

24 A: A lot of people -- you mean like shut the
25 doors, or ---



1 Q: Yeah.

2 A: A lot of people do stop serving around ---

3 Q: Do you?

4 A: Yeah. We stop serving at 1:30 and we -- we,
5 like I said before, we raise the lights, turn
6 the music down ---

7 Q: What about at 1:00, why won't you shut down at
8 1:00?

9 A: There's no reason to lose ---

10 Q: Revenue?

11 A: --- revenue, profit.

12 Q: Okay. It's money. Money drives a decision,
13 right?

14 A: Well, if you're closing at 1:00, I mean, yes.
15 I mean, revenue is ---

16 Q: Another half hour serving liquor?

17 A: It's not necessarily liquor. It's everything
18 that we sell.

19 Q: Okay. And -- and you know about kids using
20 fake IDs, right?

21 A: Absolutely. That's why we've taken the steps.
22 That's why we've ---

23 Q: Do you have a prior conviction for using a fake
24 ID?

25 A: Do I?



1 Q: Yeah.

2 A: No. I think I -- I had my brother's ID on me
3 and it was expunged.

4 Q: Well, you got arrested for it or charged or
5 ticketed for it, did you not?

6 A: I think it was -- yes, but it took a ---

7 Q: 2011?

8 A: I took a -- a AAP Class and had it expunged
9 from my record.

10 Q: How old were you when this happened?

11 A: I'm not necessarily -- I want to say 19 ---

12 Q: 2011, how old were you?

13 A: 8 -- 19.

14 Q: 19, okay. So you yourself were using a fake
15 ID. Where was this, down in Charleston?

16 A: Yes, sir. I got pulled -- pulled over on a
17 bridge going over Charleston bridge.

18 Q: It says unlawful use of an ID. Were you using
19 it or just had it in your possession?

20 A: I had bought alcohol with it.

21 Q: I don't -- Minor Purchase Possession Of Liquor.
22 Where did you buy the liquor?

23 A: It was at a gas station. It wasn't liquor.

24 Q: It was beer?

25 A: Yes, sir.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: Okay. And they called you in and turned you in
2 after they sold you the beer?

3 A: Yes.. And then I took -- like I said, I took
4 the AAP Class ---

5 Q: Right. Right.

6 A: --- took the classes and it was expunged.

7 Q: But -- but you got a much broader perspective
8 on this underage drinking than ---

9 A: Exactly. That's why I know it is a problem and
10 -- and that's why we've taken the steps to
11 prevent -- prevent it from happening.

12 Q: Takes one to catch one.

13 A: Not necessarily.

14 Q: I couldn't help myself, I'm sorry. I'm
15 through, Your Honor.

16 **THE COURT:** All right. Does -- does the Department
17 going to have cross-examination questions for
18 this witness?

19 **MS. SHIELDS:** We are, Your Honor. It's not going to
20 be as lengthy as Mr. Harpootlian so -- but we
21 are.

22 **THE COURT:** It's 1:10. I know some people are
23 probably getting hungry. Would you pre -- does
24 anybody have a -- a strong preference as to
25 whether the Department goes ahead now or



1 whether we take a lunch break and do that when
2 we return?

3 **MR. HARPOOTLIAN:** Whatever she wants to do.

4 **THE COURT:** Yeah, let's let you make that call.

5 **MS. SHIELDS:** I think maybe for Mr. Bland's sake if
6 we could go ahead and get my questions out of
7 the way and get him off -- you know, from under
8 oath.

9 **THE COURT:** All right.

10 **MS. SHIELDS:** Thank you, Your Honor.

11 **MR. BLAND - CROSS-EXAMINATION BY MS. SHIELDS:**

12 Q: Good afternoon, Mr. Bland.

13 A: Good afternoon.

14 Q: I just want to clarify some things from your
15 testimony today and then I also want to follow-
16 up on some other statutory requirements under
17 oath.

18 A: Okay.

19 Q: We were talking just a little while ago about
20 Eric Thompson and Colin Ellege --

21 A: Yes, ma'am.

22 Q: --- correct? Okay. And they -- and you may
23 not have testified to their exact title today,
24 but based on your deposition last week you said
25 that they are -- their titles are general



1 managers and bartenders?

2 A: Yes, ma'am.

3 Q: Okay. Now, they are there when you're not
4 there, correct?

5 A: Yes, ma'am.

6 Q: So -- and they're in charge of day-to-day
7 operations?

8 A: Well, technically I'm in charge of day-to-day
9 operations. They more of just assist me with
10 stuff like making sure that the inventory like
11 counting the inventory in the building and
12 stuff like that.

13 Q: Okay. Counting inventory, do they have
14 anything to do with hiring?

15 A: No. I mean, I -- I make all the final
16 decisions. They can obviously fire someone if
17 they're out of line, but.

18 Q: What about paying taxes, do they have anything
19 to do with paying the taxes of the business?

20 A: No. I -- I pay all of the taxes.

21 Q: Okay. What about anything about the payroll?

22 A: No. I -- I report all the ...

23 Q: Okay. Any other duties that they have as
24 general manager?

25 A: It's just basic night stuff like counting money



1 and stuff like that.

2 Q: Okay. And counting the inventory?

3 A: Yes, ma'am.

4 Q: Now, also you testified earlier at length about
5 the measures that you've taken to prevent this
6 underage sale of alcohol, correct?

7 A: Yes, ma'am.

8 Q: You have an ID guide booklet, you have tools at
9 the front door like the black lights, correct?

10 A: (Nods head.)

11 Q: What about -- so are -- is anyone under 21
12 allowed in the Roost?

13 A: No. We are a 21 and up ---

14 Q: Okay.

15 A: --- business. Yeah, we never do the 18 things
16 that other businesses do.

17 Q: Okay. Okay. Now, just some questions about
18 some other statutory requirements. Do you,
19 Mr. Bland, have any delinquent taxes or
20 penalties or interests owed to South Carolina?

21 A: Not at the time.

22 Q: Not at the time of your application?

23 A: Yes. Well, I mean, I do have to apply -- or I
24 have to pay taxes today actually once I get out
25 of here online.



1 Q: You don't have any delinquent taxes?

2 A: No. No.

3 Q: Okay. Does the Roost -- I -- I apologize, I
4 don't go to Five Points so I don't know what
5 your location looks like, but do you offer any
6 sort of drive through or curbside services?

7 A: No.

8 Q: Okay. What is -- do you know what the closet
9 schools are, playgrounds or churches are to
10 your location?

11 A: I know that there's a church on Devine Street,
12 that would probably be the closest.

13 Q: Okay. How -- do you have a guesstimate on how
14 far away that is?

15 A: I wouldn't be able to ---

16 Q: A mile?

17 A: --- accurately -- if I had to -- a mile. I
18 wouldn't be able to accurately say.

19 Q: Okay.

20 A: I just know that it's on Devine Street.

21 Q: What about parking spaces, does your location
22 have any parking spaces?

23 A: No. It's all metered.

24 Q: Okay. All metered parking.

25 A: Yes, ma'am.



1 Q: And what -- you talked a bit about the
2 security, the camera system, bouncers, any
3 other type of security you have that we weren't
4 -- that weren't mentioned?

5 A: No.

6 Q: Okay. What about lighting inside and outside,
7 what's the lighting like?

8 A: We have actual pretty like state of the art, I
9 don't want to -- I'm trying to think of the
10 word, essentially, strobe like lights wrapping
11 the building.

12 Q: Inside or the outside?

13 A: The outside.

14 Q: Okay.

15 A: We would turn them on at night obviously to --
16 to lighten up the sidewalks and then inside we
17 have 15 fixtures that are screwed into the
18 actual beams in the -- in the ceiling and then
19 it's on dimmer switch so that we can turn those
20 all the way up so it's a light from -- from the
21 roof coming down.

22 Q: So is it well lit inside?

23 A: Yeah, extremely well lit.

24 Q: Okay. What do you do -- and you've been in
25 business since -- been operating since



1 December. What do you do about any loitering
2 problems? Have you had any loitering problems?

3 A: We specifically changed in the remodel the
4 design of the front door because that is a
5 problem that Carolina Pour House used to have
6 all the time. The front door used to be
7 directly on the corner of Harden and Greene so
8 people that were waiting across the street or
9 stuff like that would congregate right there so
10 we made that an exit only and moved the front
11 door down on the side of the building, up --
12 farther up Harden to prevent basically any
13 loitering and stuff like that.

14 Q: Okay. Do you permit any sort of gambling or
15 games of chance on the premises?

16 A: No.

17 Q: Okay. What about any lewd or immoral conduct
18 or entertainment or anything?

19 A: No.

20 Q: Okay. What about any drinking games, do you
21 permit drinking games?

22 A: No.

23 Q: Now, you had testified that earlier today that
24 you have not had a beer or wine permit revoked.
25 What about a liquor license?



1 A: No.

2 Q: Okay. Do you have any other employees besides
3 Eric and Colin that are titled as managers?

4 A: No.

5 Q: Okay. What are the -- what are the rest of
6 your employees titled?

7 A: There are bartenders and then there are
8 barbacks which essentially are the stockers for
9 the bartenders and then there are door staff
10 that handles security.

11 Q: So the bouncers?

12 A: Yes.

13 Q: Okay.

14 **MS. SHIELDS:** I beg the Court's indulgence. I don't
15 have any other questions, Your Honor.

16 **THE COURT:** Okay.

17 **MS. SHIELDS:** Thank you.

18 **THE COURT:** Anything further for this witness by
19 anyone?

20 **MR. MONTGOMERY:** Your Honor, we are not going to ask
21 Mr. Bland any questions on re-direct. We
22 reserve the right and we may present some case
23 in reply and may recall him at that time.

24 **THE COURT:** Okay. All right then. Well, let's take
25 a break for lunch. Is an hour going to be



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 enough for everybody? Okay. All right. Well,
2 it is -- let's try to be back here at 2:15
3 then.

4 (Off the Record)

5 **MR. MONTGOMERY:** May it please the Court. The
6 Petitioners call Adam Ruonala.

7 **ADAM RUONALA**, having been duly sworn, testifies as
8 follows:

9 **MR. RUONALA - DIRECT EXAMINATION BY MR. MONTGOMERY:**

10 Q: Mr. Ruonala, if you could just give your
11 current residence address to the Court.

12 A: I live at 280 Tufton Court in Cayce, South
13 Carolina.

14 Q: How long have you lived there?

15 A: Four years.

16 Q: Okay. And if you would just tell the Court a
17 little bit about your educational and
18 employment background.

19 A: Proud attendant of the University of South
20 Carolina. I came here to play basketball.
21 After a couple of years I found myself no
22 longer able to play basketball due to some
23 injuries and suddenly started focusing on more
24 of my career world. After I completed college
25 I was employed by Clear Channel Radio. I did



1 that for a number of years, then I took on a
2 job as the National Marketing Director for a
3 restaurant chain called Wild Wing Café, did
4 that for seven years, left after seven years to
5 explore other endeavors, that was with Diaggio
6 which is Ben Arnold Properties as now
7 Breakthrough Beverage, was with a liquor
8 distributor for about seven months. After that
9 I left and joined as a Chief Marketing and
10 Sales Officer for Palmetto State Armory which
11 is a local firearms manufacturer that is a
12 nationwide distributor of firearms.

13 Q: Now, going back into college, when did you
14 become involved in the food and beverage
15 industry?

16 A: That would have been in Five Points. I was a
17 junior in college, like many other college
18 students I was dramatically strapped for cash
19 and found that I needed to get a job and the
20 opportunity arose to take employment at
21 actually the same place that Mr. Bland worked
22 far before him when it was called Sharky's and
23 the other place was Knock Knock, the Knock
24 Knock Club. It was far before it was the Red
25 Hot Tomato or anything like that and it was



1 under different ownership. But I started at
2 Sharky's and Knock Knock when I was a junior in
3 college.

4 Q: Okay. And those are part of the location where
5 I think the Rooftop is not, right?

6 A: Correct. At the time where Sharky's is was
7 another establishment upstairs by the name of
8 Rafters. While I was still employed there it
9 was no longer, the Rafters shut down and they
10 opened another establishment, the owner of
11 Sharky's purchased it and created it and called
12 it Sharky's Too, T-O-O. That didn't have as
13 quite the financial effect that I think he
14 wanted it to, it wasn't as successful as he
15 wanted so it slowly kind of dissipated in terms
16 of nights that it was open and then it kind of
17 just became a stagnant building after a while.

18 Q: Now, from a standpoint of your experience, what
19 kind of jobs did you have? What did you do at
20 Sharky's?

21 A: I started out as a doorman. I hate the term
22 bouncer. That has been used a lot here. It's
23 not a term I think is applicable for what those
24 gentlemen do. I didn't bounce a lot of people
25 even though I guess I've heard I'm big enough



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 to do so. I did assist in dissipating
2 arguments and physical confrontations. I did
3 that and the doorman in a security role. I
4 then worked as a barback which is basically you
5 are at the beck and mercy of all of the
6 bartenders. I did all of the grunt work and
7 then I worked my way up to a bartender.

8 Q: Okay. How long did you do that?

9 A: Bartender or just the whole thing in general?

10 Q: Well, start with the whole thing in general.

11 A: I -- I worked in the service industry down in
12 Five Points for I'd say roughly three years,
13 three or four years.

14 Q: Before I go on, is there anything about that
15 that led you to be interested in being involved
16 in the Roost?

17 A: It really -- it's funny that you should mention
18 that. It was actually the only reason I was
19 interested. You know, you hear the good ol'
20 days stories all the time about how things were
21 different when you were a kid and -- and while
22 I know I'm still a kid in regards to some of
23 the other individuals in this room, I've
24 learned a lot in my 35 years. And I remember
25 back then it seemed like while you could have



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 a good time and while everybody could go out
2 and sometimes act a little wilder than they
3 probably should, you knew you were safe and you
4 knew that the people you surrounded yourself
5 with were good people and some of those people
6 are still my closest confidants and business
7 associates now. And some of the life lessons
8 I learned from being involved in -- in those
9 kind of atmospheres are some of the values I
10 still hold true today and have helped me to be
11 successful in my current career and endeavors.

12 Q: And so after you graduated and left Five
13 Points, what other jobs did you have that gave
14 you skills that you feel are relevant to being
15 able to run these -- run this establishment in
16 Five Points or to be involved in?

17 A: Well, after I left, I -- like I said, I was in
18 radio. I was both on the sales and production
19 side as well as on air, and I learned the value
20 of -- of spoken word, which may not necessarily
21 you think is as applicable in terms of, you
22 know, food and beverage, but people follow
23 through with what you ask them to do if you
24 have an association of power or even just a
25 commanding presence. And I believe that if I



1 come in even if I am a minority owner or -- or
2 the sole proprietor of an establishment, if you
3 come in and you speak with confidence and you
4 speak with education that people are -- are
5 bound -- not necessarily bound, but are a lot
6 more inclined to follow a leader that actually
7 speaks and walks it, and I learned that from
8 the radio side. It's amazing what terrestrial
9 radio can do for people. Then I took a job
10 with Wild Wing and I was the National Marketing
11 Director for Wild Wing for seven years. I
12 watched them grow from 15 locations to when I
13 left I believe it was right at 40. And I did
14 everything from, you know, enhancing nights
15 that we may have bands, contests, to working
16 with local liquor distributors to, you know,
17 endorse -- endorse events, product sponsorship
18 and then working with local food manufacturers
19 also to pair, you know, wing specials and --
20 and everything that comes along with a
21 restaurant and -- and what is Wild Wing.
22 Obviously, I worked on their advertising side
23 as well. So I really have a full compass of
24 what it is to really have the food and beverage
25 side. And anybody that's familiar with Wild

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Wing knows the dynamic they have is they have
2 an excellent menu in terms of the food side,
3 but they also have an excellent environment
4 that's created everything from the ambiance
5 with music to the quality cocktails they serve.
6 So I really felt like I had a good
7 understanding of what was going on. And then
8 after that was, you know, my current position,
9 which is a controversial position in regards to
10 where people stand on the 2nd Amendment and so
11 I wasn't afraid to look somebody in the eye and
12 -- and have a disagreement with them. I don't
13 think that makes them a bad person. I think
14 that's what makes this country so great is that
15 people are allowed to have a different opinion,
16 and the most important thing is to be able to
17 listen to them and if you can find some sort of
18 common ground that then helps you to ultimately
19 make everything better. And that's what I
20 thought I was hoping to do and I still hope to
21 do with these establishments in Five Points.

22 Q: How did you get involved in the purchase or the
23 group that was purchasing the Roost?

24 A: Well, yet another unforeseen set of
25 circumstances. I got a call from Stephen Bland



1 who told me about the opportunity that had
2 arisen. I make no qualms about it that I've
3 known Daniel Wells for years and in terms of
4 his business decisions and the way he handled
5 this, I think he made a really poor decision.
6 In terms of him and the way he's treated me and
7 always conducted himself with me, he's welcome
8 in my home as -- as a friend not as business
9 owner, not as a business partner, but I
10 consider him a good person and the way he's
11 treated me. I think he made a terrible mistake
12 and I think it put a black eye on Five Points
13 as a whole and Stephen had the opportunity to
14 essentially rise a phoenix from the ashes and
15 knew that he couldn't do it on his own. And so
16 he came in and we talked and we discussed the
17 idea of me coming in as a consultant. And with
18 that there was going to be initially no money
19 down from my side, that I was going to help
20 him. It was a gentleman named George Phillips
21 that was involved initially and then he
22 explained to me the situation with Ms. Wells
23 and that I was going to be a consultant, have
24 a small portion that obviously could see
25 dividends and that also there would be

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 discussion of compensation from a consulting
2 fee. As quickly as that happened, Mr. Phillips
3 was suddenly drawn to remove his partnership
4 status from the arrangement, with that came the
5 opportunity for me to become more involved. It
6 was a discussion I had with Stephen. I had the
7 conversation with Stephen as well on behalf of
8 Ms. Wells being that he was the acting member
9 for her entity and we decided that I would have
10 the option on the call to purchase larger
11 shares as I saw fit. To be candid, I wasn't
12 very anxious to throw in a bunch of money on
13 something I hadn't seen -- I hadn't seen the
14 results from yet, I hadn't seen -- I wanted to
15 make sure they were more than just all talk.
16 And as they opened I saw that they were doing
17 it the right way and actually heeding my advice
18 and that was where I -- I reached out in
19 regards to acting on that call to acquire a
20 larger percentage of the Roost.

21 Q: And when you talk about that when you say they
22 were doing the right things, if you would, just
23 tell the Court what you've observed what you've
24 been involved with as far as doing the right
25 things at that location.



1 A: Yeah. So my biggest thing is safeguards.
2 Safeguards in anything you do, safeguards in
3 firearms, safeguards in -- in consumption of
4 alcohol, safeguards in driving and I wanted to
5 make sure that there were safeguards in place
6 to ensure that there was a level of -- of
7 safety and a level of security both on the
8 premises and off the premises. So I believe
9 that if you serve somebody a cocktail that for
10 the rest of the night as much as you can you
11 have a sole responsibility to do everything
12 that you can to ensure the safety of those
13 individuals. So it was the little things that
14 really impressed me, obviously the cameras that
15 we've talked about, you know, the -- the double
16 staff in regards to safety and security. You
17 know, Stephen was talking about the, you know,
18 two to one staff in regards what the city --
19 city required, but I think what he missed was
20 actually that's two to one staff that we have
21 just on door staff and security so, you know,
22 we had Captain Roberts at the time who was
23 South Region's Commanding Officer come down and
24 speak with us. He had just attended a training
25 in New York City that helped educate him on

**CREEL COURT REPORTING, INC.**1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 what was the best practices for large cities
2 and large clubs and we wanted to implement
3 those same -- those same processes in ours. So
4 he told me about the one to one hundred and he
5 said, Man, it would be great if you could do
6 one for every 75. I said, Well, how about we
7 do even better and do one for 50. We talked
8 about cameras. He said, It would be great if
9 you had four or five cameras in here. So we
10 said how about we put eight and let's see -- I
11 might even -- that's what would fit at the
12 time, then let's see if we can get 16. The
13 state -- we were working on that, we needed a
14 million dollar aggregate insurance policy in
15 order to operate these businesses
16 appropriately. And we said, Well, let's do a
17 five million dollar aggregate insurance policy,
18 which we have on both establishments. I know
19 we're just discussing the Roost right now. But
20 that aggregate insurance policy meant a lot to
21 me for more reasons than just what is moving --
22 obviously, if an incident happens where there's
23 a fight of somebody falls or a bottle cuts
24 somebody, you're covered and -- and that's
25 standard business practice. But there's so



1 much more that's become evident in our
2 community nowadays, everything from sexual
3 assault to a number of heinous crimes that
4 necessarily haven't really been brought to the
5 forefront and the forelight until recently and
6 that aggregate insurance policy is a much
7 larger umbrella in terms of what that covers,
8 and I -- that was important to me to know that
9 anybody that came into our establishment was
10 covered by something like that. We enacted a
11 cooperate Uber account which was something that
12 was a way of giving back to the community to
13 ensure that those patrons got home safe and
14 that's anybody that needs it. It also
15 documents where that person got in and got out
16 so you have a little bit more of a level of
17 accountability when -- when trying to track it,
18 if that -- if that were need be. And there was
19 a number of things like that, like you said,
20 you know, the -- the door staff with the black
21 lights and Mr. Harpootlian referenced that in
22 the -- the city meeting a couple of weeks ago
23 that the TSA -- how hard would it be for TS --
24 us, people, to use TSA black lights in order to
25 -- in order to help identify that are using



1 fake IDs. That felt good to me because that's
2 something we've been doing since day one was
3 using black lights and we pride ourselves on
4 the ability to safeguard that front door as a
5 first line of defense against any sort of
6 criminal activity. And to be honest with you,
7 I consider underage drinking criminal activity.
8 Everybody makes mistakes, I don't think that's
9 a bad person, but I'm not going to tolerate it
10 in an establishment that my name's associated
11 with. So it's all these things and a lot more
12 that really helped us, in my opinion, for me to
13 feel comfortable putting my name with it and
14 then obviously investing more financial.

15 Q: They also renovated the location to some
16 degree, didn't they?

17 A: Yes, sir. Yet another surprise. And I've
18 learned with construction and with business
19 awnings, this is my first business venture of
20 my own, that there's always an additional cost.
21 So when I spoke to Stephen, I spoke to George
22 the understanding was that the Roost was going
23 take about a \$20,000 investment to turn it from
24 what was the previous establishment to now.
25 There was a lot of things that needed to be



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 done, there was a giant wall down the middle --
2 I'm old enough to remember when that bar was
3 Mingle Woods before it was Pour House, before
4 it was Carolina Pour House, it was Mingle Woods
5 and then there was a wall that separated
6 partially -- it was Five Points Diner, it was
7 right there on that very corner, and while it
8 was a great establishment then, it didn't suit
9 the structural needs of what needed to be a
10 proper, safe environment for now and that was
11 those -- there was lines of sight that were
12 broken and that was important to me to get that
13 down. We had -- we had created an island bar.
14 We -- we did the floors, the floors were
15 disgusting, we did the walls, and we were able
16 to utilize a lot of the assets that were there
17 in terms of coolers and television stuff, but
18 it still needed an overhaul, it did. And we
19 were able to do that and that ended up jacking
20 the refurbing price significantly higher, but
21 it was worth it and we did that for both of the
22 establishments we're associated with because it
23 needed to be done to create an atmosphere that
24 was safe and created an atmosphere of quality.
25 Q: Why does that -- why does that renovation do to

**CREEL COURT REPORTING, INC.**1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 make things safer, if you will?

2 A: Like I said, lines of sight are very important,
3 you know, dark corners, idle hands are the
4 devil's workshop you hear. And I know it's a
5 very generic saying, but let's call a spade a
6 spade, people when they're unattended that do
7 have malicious intent whether it's to
8 themselves to do drugs, to hurt somebody else,
9 to put somebody in an uncomfortable situation,
10 to try to sneak somebody in, to -- any of these
11 things, they're doing it when people aren't
12 looking or can't see, and that was important to
13 me to not give them opportunities to take
14 advantage of -- of the situation like that.

15 Q: When you look at the Roost building, can you
16 see everything with the camera setup that you
17 have?

18 A: You can see everything. There is -- there is
19 no blind spots in that building and it's --
20 it's taken a lot of work, but it's something
21 that we're really proud of.

22 Q: And can you look at that at any time?

23 A: Yes, sir. I actually have it on my phone as
24 well as does Mr. Bland. It is complete with
25 live feed to the fact of we were waving at it



1 when we had -- when we had our open house to
2 show some of the local individuals that came,
3 I see a couple of them in the courtroom, as
4 well as the University of South Carolina came
5 and spoke with us and walked through and we
6 were doing the wave so that they could see that
7 it was truly a live feed. You can zoom in, I
8 can read a pen that was -- that was tucked in
9 your pocket, if we needed to. And actually
10 we've even used that -- utilized those cameras
11 when -- when we had issues where -- if we ever
12 had an issue where somebody was unruly or there
13 was a argument in regards to the -- the
14 legitimacy of an ID, we've actually instructed
15 our doormen to not only take the ID, do the
16 standard check, but then hold it up to the
17 camera so that -- and what that does is it
18 creates another level of accountability,
19 another checks and balances. Those people
20 aren't realizing that you're doing that and as
21 long as no -- no incident occurs there's
22 nothing they need to worry about. But what it
23 is doing is covering us from a standpoint of,
24 hey, the quality of this camera's going to
25 document this and that. We also have that with



1 the ability of our swiper, but it was just
2 another checks and balances. And quite
3 honestly, it's a visual statement that, hey,
4 there's a camera there and, you know, showing
5 what we're doing.

6 Q: Does that help you manage your employees?

7 A: Absolute -- you know, Stephen used the term
8 that I think is really hated especially down in
9 the south and that's big brother, but it is --
10 is a very true statement. Big brother is an
11 eye in the sky as always a level of
12 accountability that you cannot put a price on
13 to the point of -- I have a pet peeve, if I
14 want to buy really nice Polo's for the staff to
15 wear and have embroidered shirts and says what
16 they do on the back, I want them to wear them.
17 And, you know, we had an incident where one of
18 the doormen one day he was doing a fantastic
19 job, but he got hot so he took off that shirt
20 and then had a T-shirt on underneath it and I
21 saw it and I texted Stephen and I said, Tell
22 the guy to put his shirt back on. You know, it
23 may seem little to him, but to me, you know,
24 it's sets an air of -- air of authority, it
25 sets an air of -- of passion for your



1 employment and frankly I just didn't like the
2 way it looked. So with my cameras I can even
3 tell a guy to put his Polo back on and we can
4 also watch to make sure that people are putting
5 money in the drawer when they need to, that
6 they're not overpouring, whether it be because
7 they're trying to steal or because they're not
8 following what our guideline is which is 1.25
9 ounces per pour and I don't want people
10 overserving and it's these little things like
11 that that you can watch, that you can really
12 hold people accountable for, not only to fuss
13 at them immediately if you need to, but also to
14 check it later if you need documentation.

15 Q: Okay. Now, you heard Mr. Harpootlian talk with
16 Mr. Bland about purchase price and arrangements
17 y'all entered into ---

18 A: I did.

19 Q: --- in purchasing the business. If you would,
20 try to explain to us how you arrived at your
21 price and the arrangements that you know that
22 you made.

23 A: Absolutely. So, you know, I -- I think one of
24 the biggest issues that we -- we have in this
25 -- in this dialogue so far as Stephen is



1 brilliant in terms of what he does and -- and
2 understanding when it's hands on. I think
3 sometimes he gets a little flustered in a
4 situation like this which could be pretty
5 intimidating and Mr. Harpootlian can come
6 across pretty aggressively so I can understand
7 how -- how Stephen can get a little flustered.
8 The biggest thing in my opinion that describes
9 what the price is and -- is first mover
10 advantage. I -- when we -- when we sat down to
11 truly assess what the value of this was and
12 when I spoke with Stephen in regards to a
13 advisory role he asked me, do you think it's
14 worth it. And I said, If you don't get it,
15 somebody else will. So at that point you have
16 to assess what is first mover advantage worth.
17 Did we overpay, that's really -- in my term --
18 in my belief it's a relative term. I know what
19 the location is worth in regards to where it is
20 located on the corner of Harden and Greene is
21 location, location, location, it really is.
22 It's right there and while I've spoken with the
23 residents and we absolutely agree that we need
24 to continuously embrace the residency around
25 there which are the neighborhoods and the parks



1 and -- and the -- the nature of the other
2 businesses, local commerce that is brick and
3 mortar retails opposed to food and beverage.
4 The life blood of Five Points is the University
5 of South Carolina both on Papa Jazz to
6 Yesterday's to the Five Points Roost and so to
7 not recognize that and to capitalize on that in
8 my opinion would be a very Pour business
9 choice. So I had talked to him, we assessed
10 the value, and to be honest, Mr. Wells made it
11 very clear that -- that he had debt from Ms.
12 Wells and that one of the deciding factors in
13 moving forward would be that he -- that he was
14 able to relieve her of that debt however way.
15 We were not willing to go find that kind of
16 cash. I was not willing to assume his loan,
17 what we were willing to do is give her equity
18 with the opportunity to buy it back. That would
19 kind of kill two birds with one stone. The
20 most important thing and I think it's -- it's
21 very, very important that I clarify and I hope
22 I'm doing this the right way, is that the
23 assets that were in that establishment also
24 were very valuable. While we had to do a ton
25 of renovation, the coolers, the televisions,



1 the association with where it was located
2 around, all of that is very valuable. I can't
3 speak to the liquor license and how the whole
4 transaction works, to be honest with you, I've
5 read over it. I'm always under the assumption
6 that we're going to do it on our own and we're
7 going to check our own boxes and I think we've
8 done that, but to me it was worth every penny
9 of what we've spent. And it's been such an
10 ameba in the regards to people coming in and
11 people coming out. Could we have done it
12 probably a little more efficiently, absolutely.
13 Have we done it the way we said we were doing
14 it under oath, absolutely. And as I've become
15 more involved financially, I think the
16 documentation that we have here will show that
17 it has become much more rigid and much more
18 structured as I have financially invested in
19 it. And that would be the way we continue now
20 that we've kind of got a line of sight, and
21 hopefully once we get through all of this, if
22 the Court deems that we're worthy we'll be able
23 to be a much more structured and everybody will
24 feel comfortable with the way things are done.

25 Q: Okay. Now, from an operational standpoint,



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 what -- what are you doing operationally in
2 contributing to the business?

3 A: Me personally?

4 Q: Yes.

5 A: I -- I really have checks and balances. So my
6 theory and -- and to put it in a kind of a
7 southern term is, you know, you come into
8 somebody else's house and you notice the dust
9 on the top of the refrigerator that maybe
10 somebody else doesn't and it's because they're
11 there every day, and I -- I don't claim to be
12 in the establishment every day. Frankly it's
13 not where I'm going to go to have my cocktails
14 if I'm going to go, not because it's not safe,
15 not because I don't enjoy it, but because I
16 don't like to -- I don't like to play where I
17 eat for lack of a better term. If I'm going to
18 come in somewhere, I want them to know that
19 it's serious and it's game time. I'll be the
20 big bad dad and Stephen can be the mom for a
21 lack of the better term, you know. When I come
22 in, it's serious and I want it to stay that
23 way. So I really am that checks and balances
24 for Stephen. I've really been the liaison to
25 the community, everything from reaching out to



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 local residents to local law enforcement to
2 even we've extended offers to local politicians
3 including the mayor's office in which I've
4 spoken with their office in regards, you know,
5 better practices, what we can do. We understand
6 there's issues down there. By no means am I
7 here to say that there's not things that need
8 to be worked on. What I am saying is the only
9 way you make true change, and I know Mr.
10 Harpootlian's very aggressive, he's very good
11 at what he does, but I don't think he's going
12 to be able to knock out every renewal of a
13 liquor license, an ABL, down there and there be
14 no more bars. What I think you do to really
15 make a stand is you hit them in the checkbook
16 and people have to make a decision, are they
17 going to adjust or are they going to remain the
18 same. And right now they have the option of
19 remaining the same for one reason, to say this
20 is how we have to do it down here, you know,
21 this is -- we have to do dollar liquor, we have
22 to be a little lax on -- otherwise we're not
23 going to survive and look at this guy and look
24 at this guy. But now since we've been opened
25 we've had zero incidents, we've had the longest



1 lines in Five Points because, A, we're running
2 at that capacity, but, B, people want to be in
3 there, and we're not selling cheap drinks,
4 we're not allowing underage drinking, we're not
5 allowing over -- over consumption and honestly
6 we're making margins and we're doing it with
7 food, we're doing it with -- with beverages and
8 we're doing it with service, I think service is
9 a really important part, and we're showing that
10 -- that you can do it the right way and we're
11 raising the bar to eventually if we're the most
12 profitable bars in there, which Mr. Harpootlian
13 kept bringing up, at some point everybody else
14 in order to be successful is going to have to
15 raise the same standard as us. And I think
16 that's one of the biggest ways you can make a
17 change rather than kind of cutting off the head
18 to spite the snake. I -- I think you can
19 figure out a lot bigger way and a lot more
20 effective way when you have somebody that's
21 coming in not looking to put new businesses in,
22 but to refurbish old businesses and that's what
23 we're doing, businesses that are already zoned
24 for this -- these kind of circumstances.

25 Q: Now, Ms. Wells has an interest in the -- in the



1 equity interest in the business. What is your
2 understanding of her role in the business?

3 A: So again, it was a needs kind of thing. I was
4

5 **MR. HARPOOTLIAN:** I -- I would object unless there's
6 -- what's his understanding based on? Was he
7 told something by somebody? Is it in a
8 document somewhere? To just say what's his
9 understanding, I think there needs to be a
10 basis for that.

11 **THE COURT:** We'll let you ask him all of that on
12 cross-examination.

13 **MR. HARPOOTLIAN:** All right. I just thought we'd
14 save all that.

15 **THE COURT:** No. We not doing those kind of
16 shortcuts.

17 **MR. HARPOOTLIAN:** That's fine. That's fine.

18 **MR. MONTGOMERY:** Your Honor, if I may, I'll
19 rephrase.

20 **THE COURT:** Okay.

21 Q: What -- what investigation have you done in
22 placing your money and your reputation and your
23 name as part of this business?

24 A: So the first thing I did was honestly have a
25 very candied conversation with the parties



1 involved, talked to Stephen and -- and frankly
2 said, tell me who the players are, tell me who
3 the real players are. And it was then that
4 paperwork started coming out. And while I
5 agree, we need to get more fluid with how -- or
6 more intact with how we're doing things. It
7 was very cut and clear that Stephen Bland owned
8 27 percent or 20 -- I don't know what the
9 percentage, and then that the Holdings company
10 that was representing Ms. Wells owned a
11 percentage for -- that we'd agreed upon in
12 regards to the equity, but that Stephen was the
13 manager of that and could not be removed from
14 that management position until it was under 10
15 percent. And my -- my belief in that was that
16 if for some reason wasn't exposed and my name
17 associated with it that I wanted to be next in
18 line for that, and that was then arranged as
19 well. I hope I've answered your question
20 completely.

21 Q: Now, I asked you if -- show you a document and
22 let me ask you if you have seen this document
23 before?

24 A: Yes, sir. This is the operating agreement of
25 BG Holdings.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 Q: And BG Holdings is the company that Ms. Wells
2 operates; is that correct?

3 A: That's correct. She's the sole ---

4 Q: She's a member of?

5 A: Yes, ma'am.

6 Q: And from your knowledge of that agreement, does
7 Ms. Wells have the ability to carry out the
8 day-to-day management of that operation?

9 A: Absolutely not. That was very important to me
10 that the acting members were -- and the people
11 that were decision makers were here in Columbia
12 with their hands dirty and -- or getting their
13 hands dirty in terms of the work on place and
14 that they were decision makers and that she was
15 simply an equity holder in regards to -- as of
16 now until we can buy her out.

17 Q: Okay. And did you have any position about her
18 ability to be involved in the actual day-to-day
19 or governance or operation of the business?

20 A: I wouldn't allow it. I didn't want -- I was
21 trying to do as many of degrees of separation
22 to be candid between her and Mr. Wells and
23 anything that involved outside influences
24 having to do with the day-to-day operations of
25 the establishments.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: And -- and BG is a manager managed LLC; is that
2 correct?

3 A: Correct.

4 Q: And Mr. Bland is the manager?

5 A: Correct. And I at any given point if Mr. Bland
6 were no longer able to exercise his duties, it
7 would go to me.

8 Q: And if I could ask you to in Section 4 of that
9 operating agreement ---

10 **THE COURT:** Has the operating agreement been marked?

11 **MR. MONTGOMERY:** I have not marked it. I -- I'll
12 get it marked Your Honor.

13 **THE COURT:** Okay.

14 **MR. MONTGOMERY:** He's identified it. If you'd like
15 me to, I'll go on and mark it now.

16 **THE COURT:** That would be good.

17 **MR. MONTGOMERY:** Okay.

18 **THE COURT:** So we won't have any ---

19 **MR. HARPOOTLIAN:** Your Honor, we -- we would object
20 to introducing this into evidence. It's
21 executed by one Brenda Wells. Nobody can
22 authenticate this.

23 **THE COURT:** Well, he hasn't asked for it to be
24 introduced yet. I just wanted to ---

25 **MR. HARPOOTLIAN:** I don't mind it being marked ---



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 **THE COURT:** We're going to have a number if we're
2 going to be talking about a document. That's
3 all.

4 **MR. HARPOOTLIAN:** Right. I object to its
5 introduction.

6 **THE COURT:** Okay.

7 **Q:** Okay. If you'd mark it as Petitioner's 1,
8 please.

9 **(Petitioner's Exhibit Number 1 was marked for**
10 **identification purposes.)**

11 **Q:** And if you would, turn to Page 12 I believe.

12 **A:** Yes, sir.

13 **Q:** And if you would, just publish for the court,
14 which that's fancy lawyer talk for saying read
15 it, if you would, out loud Section 4.1 on Page
16 12.

17 **A:** The entire thing?

18 **Q:** Yes, sir.

19 **A:** All decisions concerning the business affairs
20 of the company. ---

21 **Q:** And if I may, Adam, you tend to talk fast and
22 so when you're reading, if you -- we all tend
23 to read faster than we talk so ---

24 **A:** Okay.

25 **Q:** --- if you try to read where it can be heard



1 and understood.

2 A: Yes, sir. All decisions concerning the
3 business affairs of the company shall be made
4 by the manager. All members shall be entitled
5 to vote on any matter submitted to a vote of
6 the members. The members hereby designate
7 Stephen Bland to manage the day-to-day
8 operations of the entity. Stephen Bland is
9 authorized to exercise the following authority
10 of the company acting for those purposes in the
11 capacity of manager and take the following
12 actions without limitation. Shall I continue?

13 Q: Yes, sir, please do.

14 A: A, entering into, making and performing
15 contracts, agreements, leases, management
16 contracts and other undertakings binding the
17 company that may be necessary, appropriate or
18 advisable in furtherance of the -- of the
19 purposes of the company making all decisions
20 and waivers there under. B, opening and
21 maintaining bank and investment accounts and
22 arrangements, drawing checks and other orders
23 for the payment of money and designated --
24 designating individuals with authority to sign
25 or give instruction with a respect to those



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 accounts and arrangements. C, maintaining the
2 asset's of the company in good order. D,
3 collecting sums due to the company. E, to the
4 extent that funds of the company are available
5 therefore paying debts and obligations of the
6 company. F, acquiring, utilizing for company
7 purposes, disposing of any asset of the
8 company. G, selecting, removing and changing
9 the authority and responsibility of lawyers,
10 accountants and other advisors and consultants.
11 And H, obtaining insurance for the company.

12 Q: If you'd continue, please, sir.

13 A: Yes, sir. As to the powers enumerated herein
14 the manager is an agent of the company for the
15 purposes of it's business or affairs and the
16 act of testimony manager including but not
17 limited to the purpose, the execution and the
18 name of the company of any instruments for
19 apparently carrying on in the usual way the
20 company business or businesses of the kind
21 carried on by the company, binds the company
22 unless the manager so acting has exceeded the
23 authority set forth herein.

24 Q: Okay. And if I can also turn your attention to

25 Page 13.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 A: Yes, sir.

2 Q: And Section 4.4 of the operating agreement. If
3 you would be so kind as to publish that as well
4 ---

5 A: Yes, sir.

6 Q: --- for the Court.

7 A: Number in term of office. The manager of the
8 company shall be Stephen Bland. He shall serve
9 as manager of the company for as long as the
10 company owns more than a 10 percent interest in
11 Five Points Roost, LLC. In the event that he
12 is -- he is resigns or is removed as manager
13 Adam Ruonala shall be named manager for as long
14 as the company owns more than 10 -- 10 percent
15 interest in the Five Points Roost, LLC, unless
16 otherwise provided in the articles the manager
17 need not be a member or resident of the State
18 of South Carolina.

19 Q: Thank you, sir.

20 A: Yes, sir.

21 Q: Now, in your involvement with the entity, is
22 that a condition that was important to you?

23 A: Very much so.

24 Q: If you could explain to the Court why.

25 A: Again, it's my belief that while you may be a



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 investor you don't necessarily have a pulse for
2 what exactly is going on and I think you need
3 to have the ability to give control to the
4 acting members that are -- that are currently
5 in the leads for a lack of a better term and it
6 was also very important to me that this simply
7 be evident that it was a equity based on owner
8 financing and part of an agreement that we made
9 with the previous owners as a first acting --
10 as a first mover advantage to -- to control
11 this, but to still have ultimate say over how
12 we do things, that Stephen Bland or myself were
13 the ones, you know, pulling the -- pulling the
14 cords.

15 Q: Okay. Now, did you discuss this with Mr.
16 Wells?

17 A: Yes, sir.

18 Q: And did he have an understanding as to what
19 your feelings were about his being in any way
20 involved?

21 **MR. HARPOOTLIAN:** Object, Your Honor. His feelings?

22 I think we ---

23 **MR. MONTGOMERY:** I'm sorry, Your Honor. I'll --

24 I'll withdraw that question.

25 **MR. HARPOOTLIAN:** Thank you.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 Q: During your discussion, did you explain to him
2 your intentions and belief about any
3 participation by him in this business?

4 A: Absolutely. He is, like I said, somebody I
5 consider a friend. He, however, is not
6 somebody I want to do business with. I don't
7 think that's easy for anybody to hear. I don't
8 think it's something that he wanted to hear,
9 but it's something he has respected and
10 honestly I would not be involved if there was
11 any other agreement. Not only was it not going
12 to be an option for him to be involved in the
13 business, but we also came to the agreement
14 that he was also not to set foot on the
15 premises. I know there's no legal statute that
16 says that he can't be there, but to be candid,
17 I didn't want him associated with it at any
18 level. That even is public perception and if
19 he's in there having a cocktail or he's
20 speaking to people that he knows, it's not good
21 for business and it's not good for public
22 perception, especially when we're trying so
23 hard to do everything the right way.

24 Q: Do you still talk to him?

25 A: Yes, sir.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: Okay. And have you had any occasion to discuss
2 business with him as far as related to his mom?

3 A: No, sir. Not -- not over -- in regards to
4 business. We ate at McDonald's a week ago and
5 talked about life. I asked him how things were
6 going since then, I told him that we had every
7 intention of doing right by his mother in
8 regards to the agreement we had and that was
9 really the extent of any sort of business
10 conversation we had. The rest of it was about
11 a ski trip I've got to go on soon that I'm
12 afraid I'm going to get really banged up on.

13 Q: Okay. Now, from a standpoint of the business,
14 and you've talked about this but I just want to
15 make sure I understand. Mr. Harpootlian is
16 probably going to say, well, Mr. Wells is
17 benefitting. In your view, is he benefitting
18 any more than the seller of any other business
19 benefits when they're paid for what they're --
20 what's bought from them?

21 A: No, sir. And to be quite candid I think he did
22 what he needed to do. I mean, he offered an
23 option that was aggressive in terms of his side
24 and we were willing to take it because we
25 wanted the business. And he recognized the



1 fact that he owed his mother a large sum of
2 money. But regardless of if I ever saw
3 transactions, I took him at his word for that
4 and I assigned -- we assigned equity to Ms.
5 Wells on -- on the localization of that was --
6 that was owed. We -- we accepted those terms
7 because we wanted that business and we wanted
8 it then before anybody else got in his ear and
9 took it.

10 Q: Now, did you have -- did you gain any advantage
11 by giving her equity rather than paying cash
12 money?

13 A: Yeah. I mean I -- the only advantage I didn't
14 have, the asking price that he was asking and
15 when we asked him where he got that number he
16 associated with these different things A, B and
17 C and I -- I agreed to that price, but I didn't
18 have X number of dollars, 450-, \$500,000, we're
19 going back what -- to give him that and I -- I
20 was afraid, to be candid, that somebody else
21 would.

22 Q: Okay. Now, as it relates to the lease, what is
23 your understanding of how the lease -- the
24 lease came to be, the new lease that you have
25 and the -- and the -- what was there when you



1 started?

2 A: Well, it's not really an understanding. The
3 facts are simple. When the negotiations first
4 began with Mr. Wells and the DHW Purchasing
5 Group, his entity, we're just going to cut to
6 the chase, it was very simple, was that he
7 still had a year left on his lease. And while
8 that wasn't agreeable for starting a new
9 business, the whole -- that was -- frankly, it
10 was his business, it was -- well, not his
11 business, his right to that building. We began
12 the negotiations and during that time once we
13 had already agreed to our terms a gentleman by
14 the name of Bobby Brown purchased the building
15 unbeknownst to any of us and we were then
16 contacted and let us know that there was a new
17 -- there was a new owner and that the terms of
18 -- of residency there were going to change
19 drastically. Mr. Brown, I spoke to him
20 directly as well as his legal counsel and he
21 told me very candidly that one of the reasons
22 he purchased that establishment because he got
23 wind that it was for sale ---

24 **MR. HARPOOTLIAN:** Objection, Your Honor. Hearsay.

25 A: Mr. Brown told me this directly. Okay.



1 MR. HARPOOTLIAN: It's still what he said.

2 MR. MONTGOMERY: Yeah.

3 Q: You know, don't worry about what Mr. Brown told
4 you.

5 A: Okay. But I'm confused as how to answer, I'm
6 sorry, Your Honor.

7 Q: Well ---

8 THE COURT: That's understanding.

9 Q: --- I'll try to ask you a different question.

10 THE COURT: It gets confusing.

11 A: Yes, ma'am. But I was -- and I'm -- if -- Mr.
12 Harpootlian, feel free to jump in if I say
13 something again that you ---

14 Q: Well, I'll ---

15 A: I'm sorry.

16 Q: Let me -- let me just try to ask it in a way
17 that maybe you can answer. Okay. Did Mr.
18 Brown recognize that Mr. Wells' lease was still
19 valid and could be assigned to you? Did you
20 understand that he knew that?

21 A: That -- before he purchased it?

22 Q: Yes.

23 A: Yes, sir.

24 Q: Okay. And did he discuss with you alternatives
25 to that lease continuing through sometime in



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 2018?

2 A: In regards to a new lease?

3 Q: Yes, sir.

4 A: Yes, sir. He told us that was how it was going
5 to be. He talked about we were going to do a
6 new lease and that the only way he would do it
7 was with an increase in rent and that we,
8 myself and Mr. Bland who are the owners, had to
9 personally -- not an LLC -- it's gonna
10 personally guarantee the -- the payment of the
11 -- of the entire note, which was increased up
12 to I believe 6,400, double that, over five
13 years with a three year option at the end of
14 five years, which gave us the opportunity
15 obviously to establish a solid foothold in that
16 area and not have it ripped out from under us
17 after a year.

18 Q: And did you have a concern that that would
19 happen if you continued on in the one year
20 lease?

21 A: I did. I did. Any business that's successful
22 unfortunately there's some people that are
23 going to seize the opportunity, and if that is
24 the case, not saying Mr. Brown would do that,
25 but there arises the opportunity to -- to



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 capitalize on our hard work.

2 Q: Okay. And so you have a personal risk having
3 an obligation to pay that lease even if you
4 don't have a license, you're going to have to
5 put something in that building, correct?

6 A: It's a very scarey reality, yes, sir, it is,
7 and that's the truth, yes, sir I have a
8 personal risk.

9 Q: And does Mr. Bland have that risk as well?

10 A: He also does, yes, sir.

11 Q: Okay. Is there anybody else that personally
12 guaranteed that lease besides you and Mr.
13 Bland?

14 A: I don't believe so, no, sir. I -- I know
15 George Phillips, we talked about that he remove
16 himself and it's -- it's -- Mr. Bland and I are
17 on the hook for five years.

18 Q: Okay. And is that something that would lead
19 you to also be making sure that you have
20 control of the operations of the business?

21 A: Absolutely. My livelihood, only supplies in so
22 much money and that would -- that would
23 significantly drain me of capital just to have
24 normal day-to-day operation outside of this and
25 also then my name associated with it and to be



1 frank I don't know who else we would get as a
2 tenant because the pricing on it is structured
3 around this kind of establishment. I -- I
4 don't know who else could pay \$6,500 a month
5 with the current building without a significant
6 overhaul to afford that kind of -- kind of
7 rent.

8 Q: Okay. And you tried to make yourself familiar
9 with the rules and regulations that you have to
10 operate under?

11 A: Yes, sir.

12 Q: What have you done to do that?

13 A: Everything from reading over obviously ABC and
14 meeting with law enforcement and came to
15 discuss it with you as well as with Mr. Bland
16 in regards to trying to make sure I've got
17 every, I don't want to say strategic advantage,
18 but every -- every insight I can to make sure
19 we're doing things to the letter of the law if
20 not above it.

21 Q: As you looked at opening an operating the Five
22 Points Roost what did you see to be the
23 problems in the neighborhood that you could
24 remedy through operating well?

25 A: Well, I don't think I realized some of the



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 issues that the residents were seeing and that
2 was a really big eye opener for us when we
3 started talking with them, everything from
4 they're talking about loitering and you know,
5 you've heard the stories of the -- the drunk
6 kids walking through the streets and you know,
7 public defecation, you know, vandalism, it, I
8 would be upset if that was my neighborhood, I'd
9 be upset if happened in Cayce so we said, you
10 know, let's get them home safe, let's -- some
11 of these kids, I don't know if they blow all
12 their money at the bar, but they, I guess they
13 don't have money to get home so let's get them
14 home, let's get them safe with Uber, but let's
15 -- I've offered to, you know, at the end of the
16 night the food that we do have left whether we
17 are cooking the pizza, several of the pizzas
18 there, the hot dogs are there and we offer it
19 for free at the end of the evening as well to
20 try to add another layer of -- of customer
21 service and safety and they also -- the last
22 time I spoke with the residents which is a open
23 house a month -- month or so ago in February,
24 it was the day of the Super Bowl, we offered
25 even to have them kind of talk to us in regards

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 to safety and security officers and I said I'd
2 even be willing to contribute with the
3 financial costs associated with that to help
4 alleviate some more of the problems because
5 obviously our -- our local law enforcement,
6 City of Columbia is stretched thin from time to
7 time and anything else we could do to help
8 alleviate the issues by having more eyes on the
9 issues we were willing to contribute, do our
10 due diligence as a community partner.

11 Q: As you have worked through things here have you
12 had communications with law enforcement about
13 what's happening at your establishment?

14 A: Yes, sir. More times than I can count.

15 Q: Okay. And how often do you communicate with
16 law enforcement?

17 A: We reach out to law enforcement weekly. We've
18 done everything from documented emails that
19 we've reached out to, it was Captain Roberts at
20 the time, it's Captain Williams now that we
21 have reached out to them in regards to updates,
22 we have reached out to the officers on the
23 street in regards to issues. Obviously one of
24 the things that we implemented was we talked to
25 the City about possible way or actually having



1 documentation for incidents and weekly wrap-ups
2 that was approved by the City, they said they
3 don't have something like they weren't willing
4 to created it for us, but we did find a TIPS
5 Book that was SLED certified I want to say it
6 was, basically what it is is it's -- is it's as
7 confined as possible in kind of the proper way
8 to do things, incident report and it's
9 documented by day, by time, we -- we've applied
10 that, we have an open door policy with law
11 enforcement in our establishment, everything
12 from if they need a drink, you know, if they
13 need a Red Bull or a glass of water or they
14 want a slice of pizza, it's complimentary. So
15 not only are we just saying hey, feel free to
16 come by whenever you want, but we also want you
17 to come in. We -- I believe the men in blue
18 kind of help set a tone for what's going on and
19 I think the people that are unnerved by a cop
20 in the bar are probably the people that out in
21 front of the bar, probably the people that
22 don't need to be in there in the first place
23 and that may be a general assessment, but
24 that's how I feel, that's how I perceive and
25 want to run my business and yeah, so I think

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 that's kind of where we're at. We reach out to
2 the City of Columbia in regards for, as Stephen
3 testified earlier, our biggest times are
4 football games and holidays and we reach out to
5 the city in regards to acquiring off duty
6 officers for, to work those -- those days for
7 us. The City said they are not allowed, their
8 officer's aren't allowed to do, but we can use
9 Richland County uniformed officers to do it so
10 we have every intention to do it for major
11 events. The first one being Saint Patty's Day
12 and we can cover that cost out of our -- out of
13 our budget.

14 Q: Okay. Mr. Ruonala, just from your background
15 and character as operator here as a potential
16 licensee you mentioned you attend the
17 University of South Carolina, did you receive
18 a degree there?

19 A: Yes, sir.

20 Q: What degree did you receive?

21 A: I started at Political Science and I quickly
22 transferred over to Sports and Entertainment
23 Management. So I have a degree in that field,
24 a Bachelor's.

25 Q: And what year did you receive that degree?



1 A: 2015.

2 Q: Okay. And ---

3 A: No, I'm sorry 2005, I'm sorry.

4 Q: Okay. So even you get nervous?

5 A: Yeah, apparently.

6 Q: Okay. Now, from a standpoint of the staffing
7 I know that -- that Mr. Bland has testified
8 that he does the hiring and firing, are you
9 exercising any oversight there?

10 A: Absolutely. Firing is -- is a pretty clear cut
11 thing, you do something wrong, you're fired and
12 we have a very clear and defined set of
13 guidelines in our handbook as well as clear and
14 defined way of operating, for instance, at the
15 front door, you check everybody's ID every time
16 they walk in the bar and at that -- I don't
17 care if they walk out, you see them on their
18 cell phone, they walk back in you check their
19 ID again, that's a fireable offense right out
20 the gate, that's not something you need to call
21 me at 2:00 o'clock in the morning and ask if
22 it's okay to fire, you know you did something
23 wrong, you knew what the rules were, you knew
24 what the punishment is. In regards to hiring
25 Mr. Bland handles the day-to-day, but he does



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 bring everything to my attention and gives me
2 the background on him as well from the
3 investigations that we have set in place to do
4 for the employees.

5 Q: Who signs checks for Five Points Roost, LLC?

6 A: Mr. Bland.

7 Q: Does anybody else have the right to sign a
8 check for the business?

9 A: No, sir.

10 Q: Do you take a look over the books on a regular
11 basis?

12 A: To be honest on a regular basis not that often
13 as of right now. No, sir. That's what we
14 have, that's what we pay a CPA for and he gives
15 -- gives us reports as in regards to where we
16 stand.

17 Q: Is there any event in your background that
18 would disqualify you from having an interest or
19 a license in a profession like that?

20 A: No, sir. No, sir, my mom would whip me too
21 much for that.

22 Q: And in fact I think you have some other
23 licensing that requires you to be investigated
24 on a regular basis, right?

25 A: Yes, sir. Being in the firearms industry we



1 get vetted quite fluidly and quite -- quite
2 regularly.

3 Q: Okay. How long have you lived in South
4 Carolina?

5 A: I lived out of the state for about a year and
6 a half when I was in high school but this has
7 been my home my entire life.

8 Q: Okay. Have you ever -- and you worked with
9 Wild Wings were you a licensee while you were
10 working with Wild Wings and the alcoholic
11 beverage license or beer and wine licenses?

12 A: No, sir. The liquor license was always applied
13 --- the ABL was always applied for and deemed
14 to Diane and Cecil Crowley who were the owners
15 of Wild Wing Café as a whole or when we did
16 franchisees we had I believe it was nine
17 franchisees when I left, I'm sorry 11
18 franchisees when we left, the franchise is the
19 owner of the actual establishment and was the
20 licensee for the ABL, all other entities were
21 simply operating as employees of those
22 establishments even on -- even one day licenses
23 for instance, so if we did like a outdoor, we
24 did like some outdoor beach parties in the
25 parking lot and stuff and when we do that Diane



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Crowley would actually have to come physically,
2 she didn't live here, she would have to come up
3 here and apply for it and get it in order to
4 have the one day license, it was not the
5 general manager or a marketing director or
6 anything like that it was the actual owner of
7 the company that -- that got it.

8 Q: Have you ever had a beer or wine permit that
9 was issued to you revoked?

10 A: No, sir. Hopefully not yet, not ever.

11 Q: Have you ever received a citation of any kind
12 alleging that you violated the Alcoholic
13 Beverage Act in South Carolina?

14 A: No, sir.

15 Q: Now, let's talk about Five Points a little bit.

16 A: Okay.

17 Q: And you indicated you worked there some 15
18 years ago or so.

19 A: Yes, sir.

20 Q: As far as the establishments when you worked
21 there 15 years ago was there a licensee at 800
22 Harden Street?

23 A: Yes, sir.

24 Q: And what do you remember, what was that called?

25 A: When I -- when I originally there it was Mingle



1 Woods, it was Mingle Woods Bar, Mingle Woods,
2 it was -- it was a bar and it was called Mingle
3 Woods.

4 Q: And do you know if there's been a licensee in
5 that location from that time to the present?

6 A: I can speak with a hundred percent certainty
7 that there's been a licensee selling spirits
8 with beer and wine the entire time I've been in
9 Columbia.

10 Q: Okay. And do you know of anything that has
11 changed that makes that location less suitable
12 now than it was then or in any of the time in
13 between?

14 A: I know nothing at all that has changed.

15 Q: When you look at your cameras and do your
16 analysis of what's going on at Five Points
17 Roost since you guys opened tell the Court a
18 little bit about what you see.

19 A: Structure, structure and security. One of the
20 biggest things obviously is the Department Of
21 Revenue, she even brought up today was
22 loitering, that was one of the biggest issues
23 that we had was it looked -- on the corner it
24 was a double door that opened up the corner of
25 800 right there at Harden and Greene and not



1 only like -- like Mr. Bland testified to did
2 you have the issues of people that just being
3 crosswalk, double crosswalk because you had a
4 little -- but then you had frankly people want
5 to be where other people are and so you have a
6 group of people there leaving establishments,
7 you had people crossing the street so then it
8 created a crowd and when it was a crowd a lot
9 of times unfortunately, like I said it -- it
10 uncontrolled, not being able to control
11 something, not being able to see something can
12 sometimes arise and create mischief and that
13 was what we saw was an issue there. So we
14 created as a -- as a exit only and then where
15 the entrance was in my opinion it was still
16 close to the exit and so we said let's move it
17 down, we actually blocked off the doorway and
18 moved it farther down the street, farther down
19 the building to give ourselves a larger buffer
20 between the exit and the entrance -- structures
21 and it's -- it's paid off for us in terms, in
22 my opinion in terms of safety and security it's
23 a big difference, huge difference.

24 Q: Are you aware of the permits at that location
25 ever been revoked?



1 A: No, sir.

2 Q: Mr. Ruonala, what is your intention moving
3 forward as far as you own a very small part
4 now, what is your intention moving forward as
5 to how you hope to participate in this
6 business?

7 A: So, speaking solely on the Roost, like I said
8 was given my 2.17 percent initially as a small,
9 I don't want to say token because I believe I
10 earned it, I think token sounds trivial, but a
11 small payout in regards to my -- my time
12 consulting as well as then discussion of
13 consulting fees, but I have every intention now
14 that I see that it can be done that we are
15 doing it the right way my staff, Stephen
16 continue to grow, a rally actually enacted my
17 call and we'd place, I placed \$7,000 additional
18 equity or additional monetary payment into the
19 establishment and began my call to 10 percent
20 which was a \$21,000 annual call that I have the
21 right to do as that 10 percent at \$21,000s
22 value to be paid to BG Holdings and that will
23 essentially, immediately begin to bring down
24 Ms. Wells' equity in the establishment which
25 I've already done. Like I said I'm cautious



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 with my money and I'm cautious with my -- my
2 brand association and until I saw things were
3 going to done the right way I wasn't willing
4 to put my money where my mouth was so it's --
5 it's been really encouraging to see that I can
6 do that now and -- and hopefully we're given
7 the opportunity to continue to do that as -- as
8 time goes.

9 Q: I'm going to show you a document -- I guess
10 I'll ask the Court Reporter to mark this as
11 Petitioner's 2 for identification.

12 **(Petitioner's Exhibit Number 2 was marked for**
13 **identification purposes.)**

14 Q: If you could just identify that document for
15 me.

16 A: This is the option purchase agreement.

17 Q: And that's the document you're referring to
18 about requiring additional interest in the bar?

19 A: Yes, sir, it is.

20 Q: Okay. And if you turn to pages 3 and 4.

21 A: Yes, sir.

22 Q: Who signed the document?

23 A: On page 3 you'll see Stephen Bland signed it as
24 the manager for BG Holdings and on page 4
25 you'll see that I signed it as the holder and



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Stephen Bland signed it as the manager of Five
2 Points Roost, LLC.

3 Q: Okay. Your Honor, we move to admit this and I
4 guess to keep numbering in that I may reserve
5 the right to come back and authenticate
6 Petitioner's 1 and we'd ask that this be
7 admitted as Petitioner's 2.

8 MR. HARPOOTLIAN: No objection.

9 THE COURT: Okay. All right. Petitioner's 2 is
10 admitted.

11 (Petitioner's Exhibit Number 2 was admitted at this
12 time.)

13 Q: Mr. Ruonala ---

14 A: Yes, sir.

15 Q: --- if you would, explain to the court why you
16 believe as the owner, one of the owners of this
17 entity and someone who has expressed the
18 intention to acquire substantial portion of
19 this entity, why this is a suitable location
20 for this establishment what you're doing to
21 make sure that it remains that way.

22 A: Like I said, and I make no bones about it, that
23 the location is prime for what we're trying to
24 do and that is appeal to all demographics. A
25 lion's share will be the University and I --



1 honestly, under oath and just talking to
2 anybody, we have to identify that the
3 University is going to draw the largest
4 percentage of clientele, but we also have
5 amazing neighborhoods around there who have
6 expressed interest in having places in Five
7 Points that they can go and feel comfortable
8 and, you know, everything from us opening for
9 lunch Thursdays, Fridays and Saturdays to the
10 cocktails we serve and the environment we
11 provide. I believe it's ideal for -- for the
12 surrounding areas and the demographic that is
13 around as diverse as it is. We're committed to
14 doing it because of the, frankly a lot of
15 reasons, our financial stake in it, we can't
16 afford for it to fail, my reputation as a
17 member of this community, the commitments we've
18 made to members of this community and
19 everything from residents to other business
20 owners to law enforcement and to the community
21 as a whole. I'm a man of my word and I believe
22 you're only as good as your word and we told
23 everybody we were going to do this the right
24 way and if they have an issue, they have my
25 cell phone number which rings all night it

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 needed to and I have not intention of being the
2 guy that lied and had egg on my face later on
3 because we didn't do it the right way so yeah,
4 financially we have stake, but also I think
5 just as important as the financial side is is
6 your reputation.

7 Q: Mr. Ruonala, as you sit here how much money
8 have you personally put into Five Points Roost?

9 A: I have put \$7,000.

10 Q: And how much time would you say that you've put
11 into it from the time that you started talking
12 about it moving through the renovations to the
13 operation to this licensing procedure?

14 A: A lot more than I anticipated and Mr.
15 Harpootlian has helped me see to that, but I'd
16 say no less than 15, 20 hours a week.

17 Q: So you've been involved?

18 A: Very much so, yes, sir.

19 Q: Mr. Ruonala, I thank you. If you'd answer any
20 questions that either Mr. Harpootlian or the
21 Department has. I would ask if the court could
22 indulge me and allow me a very brief break?

23 **THE COURT:** Yes, let's do take -- I think we've been
24 going long enough that we should take a five
25 minute break. Let's do that.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

(Off the Record)

MR. HARPOOTLIAN: Please the Court, Your Honor?

THE COURT: Uh-huh. Go ahead.

MR. RUONALA - CROSS-EXAMINATION BY MR. HARPOOTLIAN:

Q: Mr. Ruonala, I believe we've met before, I don't think I've ever examined you before, is that correct?

A: Yes, sir.

Q: Okay. I'm going to ask you a series of questions and perhaps when you watched Mr. Bland's testimony you thought to yourself if you just say yes or no this thing would move a lot quicker or maybe you didn't think that, but it's going to help me if you could, I mean, you can explain all you want, but yes or no would get this moved along a lot quicker and I have the Chief of Police sitting out here ready to testify next so you're the only thing standing between that guy with a gun and a -- and a his testimony, okay?

A: Guns don't bother me, sir.

Q: Well, you know, and that -- and that brings up the point you have a bar and you own a gun store and it's ---

A: I don't own a gun store, sir.



1 Q: --- or -- or you manage a gun manufacturer. Is
2 it a good thing to be able to carry guns into
3 a bar?

4 A: I don't think that's what we're here for, sir.

5 Q: No, I'm just curious.

6 A: I think if you're not consuming alcohol I think
7 it's your right, but then again that's the
8 South Carolina law and that's ---

9 Q: Okay.

10 A: --- presentable.

11 Q: I just wanted -- I just wanted to hear your
12 take on that. So you're hesitant if ---

13 A: No, sir.

14 Q: Okay. So you go to a bar to what, with a gun,
15 I mean you're, are you drinking alcohol?

16 A: Your Honor, is this what ---

17 Q: First of all, you can't object and that's not
18 your role. That's his role and I understand
19 you're used to being in control, but you're not
20 in control here, you're here to answer the
21 questions and I'll withdraw the question
22 because I really don't care what you think
23 about that, okay? Now, let me ask you about
24 something that does matter. You would concede
25 that Mr. Wells out here has got a note to a



1 company, to an LLC you have an interest in,
2 they, you owe him, your LLC owes him \$150,00,
3 correct?

4 A: Yes, sir.

5 Q: Okay. And you would concede his mother was
6 given an interest in that same LLC, \$312,000,
7 to extinguish money he owed her?

8 A: Yes, sir.

9 Q: Okay. So 150, 312, 450, almost a half a
10 million dollars that -- that your LLC has
11 agreed to pay to him or on his behalf ---

12 A: Yes, sir.

13 Q: --- Mr. Wells, is that ---

14 A: Yes, sir.

15 Q: Okay. Now, you were and I was trying to follow
16 you on -- on this, okay, he had a lease -- let
17 me ask you this, have you ever heard of DB&A
18 Entertainment, LLC?

19 A: No, sir.

20 Q: Okay. Or how about Hands Robert Brown?

21 A: Is that an LLC, I'm sorry, sir, I'm ---

22 Q: Do you know ---

23 A: I know Bobby Brown. I know a gentleman named
24 Bobby Brown. I'm assuming maybe that's a ---

25 Q: Okay.



- 1 A: --- abbreviated or a ---
- 2 Q: How about Anthony Carbone?
- 3 A: Anthony Carbone, yes. Carbone, yes, sir.
- 4 Q: Who is he?
- 5 A: He was the, one of the original partners in the
- 6 previous Pour House, sir, before Daniel Wells.
- 7 Q: Okay. And -- and the previous lease was -- who
- 8 had the previous lease was, who owned the
- 9 building or leased to the Pour House to begin
- 10 with, who was that?
- 11 A: Well, sir, there's a couple of Pour House's so
- 12 I mean ---
- 13 Q: No, I'm talking about this Pour House.
- 14 A: I don't know the name of the individual that
- 15 owned it, sir.
- 16 Q: Well, what about you were buying that lease,
- 17 weren't you?
- 18 A: No, sir.
- 19 Q: You weren't?
- 20 A: No, sir.
- 21 Q: What -- what lease were you buying?
- 22 A: Well sir, like I said we were buying first
- 23 mover advantage on the entity as a whole.
- 24 Q: Okay. No, no -- no, no. Okay. So did the
- 25 entity have a lease?



- 1 A: Yes, sir.
- 2 Q: Who was it with?
- 3 A: The previous owner of the builder before ---
- 4 Q: When did it expire, did you see it?
- 5 A: It would have been a year from then, yes, sir.
- 6 Q: A year from when?
- 7 A: From when we initially began our conversation
- 8 ---
- 9 Q: You saw the lease?
- 10 A: No, sir, I did not.
- 11 Q: Who told you that?
- 12 A: Mr. -- Mr. Bland.
- 13 Q: Mr. Bland. And who told Mr. Bland?
- 14 A: I can't speak to that, sir.
- 15 Q: Have you ever seen a copy of the lease?
- 16 A: No, sir.
- 17 Q: So can you state under oath that the lease had
- 18 another year to run?
- 19 A: You're asking me what I knew.
- 20 Q: What you know of your own knowledge.
- 21 A: Yes, sir.
- 22 Q: Okay. And that's because you saw the lease?
- 23 A: No, sir.
- 24 Q: That's because Mr. Bland told you?
- 25 A: Yes, sir.



1 Q: Okay. But other than Mr. Bland's discussion
2 with you about that you don't know any of that
3 of your own knowledge, is that correct?

4 A: I didn't until you confirmed it earlier, so.

5 Q: Confirmed what?

6 A: That there was a year left on it at \$2,400.

7 Q: All right. I asked if that's what was, what he
8 -- and that's what he said, he said \$2,400 a
9 month, but that's not who y'all signed the
10 lease with, is it?

11 A: No, sir.

12 Q: The previous person. Who did y'all sign the
13 lease with?

14 A: Bobby Brown.

15 Q: Okay. Now, Bobby Brown had bought the
16 building?

17 A: Yes, sir.

18 Q: Okay. And who did he buy it from?

19 A: Again sir, I don't know the name of the entity.

20 Q: Well, what I'm trying to figure out is if
21 you're paying you said first to move you're
22 paying because you could get this one year
23 lease, have you, you've never seen the lease,
24 correct?

25 A: Yes, sir.



1 Q: And is there something in writing that gave you
2 a right to succeed the Pour House on that
3 lease?

4 A: If I may sir, I never said that we were buying
5 it for the one year lease.

6 Q: Okay. So the one year lease had no affect on
7 your decide to buy?

8 A: No, sir.

9 Q: Well, what were you buying?

10 A: We were buying, like I said, location,
11 location, location.

12 Q: Okay. Location.

13 A: Well, sir, you're asking me -- you're asking
14 me.

15 Q: Okay. But ---

16 A: Can I answer?

17 Q: --- I know when you say location it's a piece
18 of property. Did Mr. Wells own it?

19 A: No, sir.

20 Q: He had a lease on it?

21 A: Yes, sir.

22 Q: And you're not buying the lease so when you say
23 location, location, location what were you
24 buying?

25 A: We were buying everything that had to do with



1 the building.

2 Q: Which was?

3 A: Assets like we previously stated ---

4 Q: Like what?

5 A: Those televisions, those beer coolers, there
6 was even popcorn machines, guns, soda guns ---

7 Q: \$150,000?

8 A: I think that's a safe assessment, sir.

9 Q: Did you -- did you have it appraised?

10 A: No, sir. I -- I ---

11 Q: Did anybody go through and look and -- and get
12 a list of assets? I don't see -- this is an --

13 -

14 A: You're ---

15 Q: --- asset purchase agreement with no list of
16 assets.

17 A: Yes, sir. We did go through it and assessed --

18 -

19 Q: Okay.

20 A: --- it.

21 Q: And put prices on them?

22 A: We did, yes, sir.

23 Q: Okay. What happened to that document?

24 A: That wasn't a document that was needed for
25 assessment in order to have purchased the



1 arrangement.

2 Q: Okay.

3 A: Or purchase the ---

4 Q: What about the other \$312,000, what was that
5 for?

6 A: That was -- Mr. Wells expressed that if we
7 wanted to take advantage of his offer
8 immediately ---

9 Q: What is he offering, that's what I'm getting
10 at, what does he have, he's got a place that's
11 been shut down by the police, a liquor license
12 he's surrendered, a lease that he -- you say
13 you're not paying him for, what is it you're
14 buying?

15 A: Well, sir, I said the only thing wasn't, I said
16 we weren't buying the one year lease.

17 Q: Okay. So, all he had was the one year lease.

18 A: Right. But he still had a one year lease.

19 Q: Okay. But you weren't buying that, what did
20 you buy?

21 A: We bought location and the assets associated
22 with it.

23 Q: Okay. Location. 800 Harden Street?

24 A: Yes, sir.

25 Q: You bought that location?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 A: We didn't buy the building, no, sir, we bought

2 ---

3 Q: What did you buy?

4 A: The opportunity.

5 Q: From who?

6 A: From Mr. Wells.

7 Q: What opportunity did he have to afford you?

8 What -- what is it he had? He has a bar that's

9 out of business, he's got a liquor license

10 that's been surrendered, the Chief of Police

11 back here was trying to shut him down as a

12 nuisance, what is it he had that you paid a

13 half a million dollars for?

14 A: (No verbal response.)

15 Q: What was it and don't say location again

16 because he didn't own the location, what --

17 opportunity, he didn't have the opportunity,

18 what is it you bought?

19 **MR. MONTGOMERY:** Your Honor, object to the form of

20 the questions, it's argumentative and assumes

21 facts that are not in the evidence.

22 **THE COURT:** Mr. Harpootlian, let's --

23 **MR. HARPOOTLIAN:** Tone it down a little bit?

24 **THE COURT:** --- yeah, let's ---

25 **MR. HARPOOTLIAN:** Okay.



1 **THE COURT:** --- tone it down just a little bit.

2 **MR. HARPOOTLIAN:** Okay.

3 **Q:** What did you buy?

4 **A:** Location.

5 **Q:** Location that he didn't own?

6 **A:** Well, sir, for the next year --

7 **THE COURT:** Mr. Harpootlian, he's answered your
8 question ---

9 **MR. HARPOOTLIAN:** Well ---

10 **THE COURT:** --- I don't think you ---

11 **MR. HARPOOTLIAN:** --- I'm -- I'm ---

12 **THE COURT:** --- you're gonna get a different answer.

13 **MR. HARPOOTLIAN:** Okay. Okay.

14 **Q:** Now, you would agree with me that ---

15 **A:** Probably not.

16 **Q:** --- okay. You would -- well, these are facts
17 you've testified to. You would agree with me
18 that in the process of coming into this
19 facility you had never managed this kind of
20 facility before, managed?

21 **A:** Yes, sir.

22 **Q:** Where?

23 **A:** No, I said yes, sir I'm agreeing with you.

24 **Q:** You agree with me, okay. Now, you did work at
25 a bunch of bars in Five Points?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

- 1 A: Yes, sir.
- 2 Q: And you were a bouncer, or whatever you want to
3 call them?
- 4 A: I was not bounce, sir, I don't bounce people.
5 I was security.
- 6 Q: Security? Okay. You're six foot ten?
- 7 A: Yes, sir.
- 8 Q: What do you weigh?
- 9 A: That's a personal question.
- 10 Q: Well, I mean you're a big guy.
- 11 A: 310 pounds, sir.
- 12 Q: 310 pounds, six foot ten. Not a bad guy to
13 have as security, but did you ever work as a
14 bartender?
- 15 A: Yes, sir.
- 16 Q: And did you serve liquor?
- 17 A: Yes, I did.
- 18 Q: And did you serve liquor after 2:00 o'clock in
19 the morning?
- 20 A: No, sir. I did not.
- 21 Q: Never?
- 22 A: Not a single time.
- 23 Q: Huh. Were other people in those bars doing
24 that?
- 25 A: Not in that bar. No, sir.



1 Q: What bar?

2 A: It was Sharky's and Knock Knock owned by Scott
3 Winterberry who was the previous owner and
4 would not allow it.

5 Q: Would not allow it? Okay.

6 A: You would be terminated, yes, sir.

7 Q: Okay. Now, you knew Mr. Wells before you
8 bought the whatever it is you bought from him,
9 right?

10 A: Before I invested in the Five Points Roost,
11 yes, sir, I knew Mr. Wells very well.

12 Q: Okay. And how did you know him?

13 A: We were friends.

14 Q: Did you ever go to the Pour House?

15 A: Yes, sir, I've been in there.

16 Q: What?

17 A: Yes, sir, I've been in there.

18 Q: Many times?

19 A: Not many, I'm a little old for that, so.

20 Q: Okay. Now, when Mr. Wells -- I guess, was it
21 Mr. Bland that communicated to you that Mr.
22 Wells wanted to sell whatever it was he was
23 selling?

24 A: I was contacted by Mr. Bland, yes, sir.

25 Q: Okay. Did you talk to Mr. Wells about it?



- 1 A: Yes, sir.
- 2 Q: Okay. On how many occasions?
- 3 A: Once.
- 4 Q: Just one time?
- 5 A: About that, yes, sir.
- 6 Q: And did y'all talk details?
- 7 A: No, sir. I asked him if it was legit and he
- 8 said he was buying it and ---
- 9 Q: What was legit?
- 10 A: If that he was selling it.
- 11 Q: Okay. And you didn't ask him what he was
- 12 selling?
- 13 A: If he was selling the Pour House.
- 14 Q: Okay.
- 15 A: I ---
- 16 Q: Okay. Now that I've beat that horse til it's
- 17 ---
- 18 A: I think so.
- 19 Q: So let me ask you a couple of things about when
- 20 certain things happened. When did the -- when
- 21 did y'all, the Roost, sign the note for
- 22 \$150,000 to Mr. Wells' company, what -- what
- 23 was the date of that?
- 24 A: To tell you the truth the date I can't
- 25 remember, it was I would say and I'd have to



- 1 fact check, somewhere probably October.
- 2 Q: How about would it shock you it was the first
- 3 of September of 2017?
- 4 A: No. Being I said somewhere in October I think
- 5 we're doing pretty good.
- 6 Q: Well, you're close, but no cigar.
- 7 A: Yes, sir.
- 8 Q: Okay.
- 9 A: I don't spoke.
- 10 Q: Okay. That's a frequent term, never mind.
- 11 Okay. And the lease you executed, the lease
- 12 with Mr. Brown you executed what day?
- 13 A: I ---
- 14 Q: Right here.
- 15 A: It says first day of September.
- 16 Q: So the same day that you promised to pay Mr.
- 17 Wells \$150,000 was the same day you signed the
- 18 new lease, right? Right?
- 19 A: Yes, sir.
- 20 Q: So did Mr. Wells have anything to do with
- 21 acquiring that lease for you?
- 22 A: Absolutely not.
- 23 Q: Okay.
- 24 A: Mr. Brown's actually insistent that he had no
- 25 association with that.



- 1 Q: Okay.
- 2 A: I believe his lawyers have ---
- 3 Q: Okay. So I guess my point is that once y'all
- 4 signed this agreement Mr. Wells got his
- 5 agreement for 150, right?
- 6 A: Well, actually we signed Mr. Wells first.
- 7 Q: Well, you didn't even know what month you
- 8 signed it a minute ago.
- 9 A: I remember that I signed Mr. Wells first, sir.
- 10 Q: Really?
- 11 A: Yes, sir.
- 12 Q: And did you file it?
- 13 A: I can't tell you who filed it, sir, I just know
- 14 when I signed.
- 15 Q: Okay. And where did you sign it?
- 16 A: At Mr. Montgomery's office.
- 17 Q: And what -- morning, afternoon?
- 18 A: Again, sir, I couldn't tell you.
- 19 Q: Okay. So you believe you signed the Wells
- 20 agreement the same day you signed the lease
- 21 agree -- well, not -- well, you did.
- 22 A: As far as I know, yes, sir.
- 23 Q: Okay. Now, the agreement giving Ms. Wells the
- 24 \$312,000 interest, when was that signed, was
- 25 that signed before or after that?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 A: You know sir, I can't recall.

2 Q: Okay. That would've been the LLC which was
3 created on, let me make sure I get this right,
4 which was created with BDO, BG Holdings and
5 you, Mongo?

6 A: Yes, sir.

7 Q: And what's that Mongo thing?

8 A: Since I was a little boy I was a mongoloid
9 because I was a big guy and so that's been a
10 nickname for my family since I was a little
11 kid, Mongo.

12 Q: Your family ---

13 A: Family.

14 Q: --- called you Mongo short for mongoloid?

15 A: Yes, sir. Well, my dad did because he -- I
16 kept growing, I got bigger than him.

17 Q: Okay. So actually I'm looking at the Five
18 Points Roost, LLC and it's dated October 27th,
19 is that correct?

20 A: Yes, sir.

21 MR. HARPOOTLIAN: And that's page 33 of the DOR
22 Exhibit 1 Your Honor just for reference in the
23 record.

24 THE COURT: What page was that?

25 MR. HARPOOTLIAN: Page 33.



1 Q: So I guess when y'all signed the guarantee
2 agreement there was no Five Points Roost, LLC.
3 Well, I mean you signed that, the guarantee
4 agreement was signed on September 1 a month
5 earlier, right?

6 A: Yes, sir.

7 Q: I mean we just looked at it.

8 A: Yes, sir.

9 Q: And you signed the lease the same day and
10 that's prior to the execution of the LLC.

11 A: Of Mongo or ---

12 Q: Oh no, no of Five Points Roost, LLC.

13 A: I can't speak to that, sir.

14 Q: Well, let me look at it.

15 A: No, I -- I understand that.

16 Q: Okay. Well, you said you can't speak to it,
17 you've spoken to a lot here today. These
18 documents indicate you didn't even have a Five
19 Points Roost, LLC at the time you executed the
20 -- or did you have one?

21 A: According to you that's it.

22 Q: No. These ---

23 A: According to the documents.

24 Q: --- this is what you filed with the DOR.

25 A: Yes, sir.



1 Q: Did you leave something out?

2 A: No, sir.

3 Q: Okay. Now, When you --, you say you haven't
4 been speaking to Mr. Wells, is that right?

5 A: I said I haven't spoken to him in regards to
6 anything business related, I made it very clear
7 that I still speak to him on a personal level
8 from time to time.

9 Q: But you need to agree with me that Mr. Wells
10 has a financial interest in Five Points Roost,
11 LLC generating a profit, correct? I mean he
12 doesn't get any of his 150 back until you
13 general a profit, is that correct?

14 A: That is not correct. No, sir.

15 Q: He gets it ---

16 A: So Mr. Bland, what we was speaking under -- he
17 was confused in regards ---

18 Q: Confused. When does he get his 150?

19 A: He begins to get his 150 in a year..

20 Q: Okay. In a year. And ---

21 A: Yes, sir.

22 Q: --- what is the scheduled payment?

23 A: We have --- we have to pay -- unfortunately we
24 have to pay him. It has nothing to do with the
25 profit.



- 1 Q: 150?
- 2 A: Yes, sir. We begin the ---
- 3 Q: But you have to be around in a year?
- 4 A: Yes, sir.
- 5 Q: Okay. And then you pay his mama back the money
- 6 he borrowed from her on what schedule?
- 7 A: We don't pay the money, no, sir, she has equity
- 8 so we have the option of buying out her shares.
- 9 Q: Okay. And you signed an agreement to buy out
- 10 her shares?
- 11 A: We signed an agreement to buy -- no. It's ---
- 12 Q: An option, I'm sorry.
- 13 A: Yes, sir. An option. It's different than an
- 14 agreement.
- 15 Q: Okay. So you don't think his mother, the debt
- 16 he had to his mother being assumed by y'all in
- 17 effect doesn't give him an interest in the
- 18 company?
- 19 A: I think he was a savvy businessman when he
- 20 created this deal.
- 21 Q: When he what?
- 22 A: When he created -- when he negotiated this
- 23 deal.
- 24 Q: Were you?
- 25 A: I think I still was and if we could get through



1 this process I guess time will tell.

2 Q: Well, so you were interviewed by the -- Jeff
3 Wilkinson, State Newspaper quoted, said Ruonala
4 said that while he knows Wells the former
5 owner's no longer part of -- former owner's no
6 longer a part of the business, there's no
7 association, have no association.

8 A: That's correct.

9 Q: But you would agree that you do owe him, your
10 company does, \$150,000.

11 A: Yes, sir.

12 Q: He's financed in effect the Roost. I mean
13 you've got a \$150,000 that you've or something
14 you've acquired from him and given him a note,
15 you're going to give him \$150,000 in a year?

16 A: Yes, sir.

17 Q: Okay. So you -- you -- he's got a \$150,000
18 coming out of the Roost?

19 A: Do you want me to speak in context?

20 Q: You can speak any way you want to.

21 A: Awesome. I -- I bought by house four years ago
22 and at that point I owed \$198,000 to hurricane
23 homes and the bank, but I owned the home and
24 that's the same way I've used this.

25 Q: Well, but -- but the bank has a lien on your



1 home and Mr. Wells has a lien on you, does he
2 not?

3 A: No, sir.

4 Q: No?

5 A: No, sir.

6 Q: So if you don't pay the 150 what happens?

7 A: Well sir, I guess we'd take it to court.

8 Q: Do you concede you owe him the 150?

9 A: Yes, sir, I do.

10 Q: Okay. So he has, I mean he -- he -- you owe
11 him money and you owe his mama money, you gave
12 her equity, but that's based on money he owed
13 her.

14 A: Yes, sir.

15 Q: I'm going to have to go over this many more
16 times, but you would agree with me, maybe you
17 wouldn't agree ---

18 A: Probably not.

19 Q: --- that Mr. Wells has an interest in the
20 Roost.

21 A: No, sir.

22 Q: A financial interest in the Roof.

23 A: No, sir.

24 Q: Roost. You don't think any of that?

25 A: I think he has a financial interest in us.



1 Q: In who?

2 A: In us paying him back.

3 Q: Okay. Us being who?

4 A: Myself and Stephen Bland.

5 Q: Doing business as?

6 A: No, sir. Stephen Bland and myself.

7 Q: No, no. The note is not with you and Stephen
8 Bland ---

9 A: I understand.

10 Q: --- who's it with?

11 A: Five Points Roost, LLC.

12 Q: Okay. Now, let me ask you a couple of other
13 things that are a little technical. You
14 believe that this purchase agree -- this
15 operating agreement of BG Holdings, LLC doesn't
16 allow or it allows Mr. Bland to operate it
17 without any input from Mr. Wells?

18 A: Well, as we stated that's exactly what I
19 believe, yes, sir.

20 Q: Okay. And have you reviewed section -- or
21 excuse me, Code Section South Carolina 33-44-
22 404(b).

23 A: That's what we retained the services of
24 wonderful, intelligent gentlemen like you guys
25 for.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: Okay. And by the way, Mr. Montgomery
2 represented Mr. Wells.

3 A: Yes, sir.

4 Q: When he opened the Pour House?

5 A: I can't speak to that, sir.

6 Q: And then he represented Mr. Wells and y'all
7 when they did the deal, right, when y'all did
8 the deal?

9 A: That part is correct, that I can speak on, yes,
10 sir.

11 Q: Okay. And now he's representing you the -- the
12 Five Points Roost, the latest permutation of
13 the bar in Five Points?

14 A: Yes, sir.

15 Q: Okay. So is it your belief that this operating
16 agreement displaces Ms. Wells' statutory right
17 to remove the -- the designated manager of BG
18 Holdings, is that right?

19 A: Yes, sir. Until she owns less than 10 percent.

20 Q: Okay. Okay. And that -- and that's what you
21 believe?

22 A: 100 percent, yes, sir.

23 Q: And that's based on what an attorney's told
24 you?

25 A: Yes, sir.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: Because you haven't read the code?

2 A: Well, sir I don't know if ...

3 Q: You're not a lawyer?

4 A: No, sir, I'm not.

5 Q: Okay. Now, you put how much, did you put any
6 money into the Five Points Roost, LLC?

7 A: Yes, sir.

8 Q: How much?

9 A: \$7,000.

10 Q: And you've got 2.7 which is 12,500?

11 A: No, sir. Now I have only a 10 percent because
12 I acted on my call which I've expressed earlier
13 which was to increase my shares.

14 Q: Did you pay more money?

15 A: I paid the \$7,000 to, in the shares, yes, sir.

16 Q: No. I guess what I'm saying is initial --
17 how'd you go from -- what'd you pay to go from
18 two to ten?

19 A: I just said that, \$7,000 of the \$21,000 that I
20 will -- as -- as stated on the very first line
21 of the contract, sir, on the very first page,
22 right there (indicating) B of 1.

23 Q: I'm sorry, I don't quite follow you.

24 A: 1-B on the very first page of the option
25 purchase agreement.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

- 1 Q: Oh, the option purchase agreement.
- 2 A: Yes, sir.
- 3 Q: So you bought it from her?
- 4 A: Yes, sir.
- 5 Q: You bought it from ---
- 6 A: From BG Holdings, yes, sir.
- 7 Q: Will you reduce Mr. Wells debt to her?
- 8 A: No, sir. So I took equity from BG Holdings,
- 9 this has nothing to do with Mr. Wells at this
- 10 point sir.
- 11 Q: Well, the -- the money went to -- if he, in
- 12 fact if she has a note or an obligation to pay
- 13 her you've reduced that obligation by \$7,000?
- 14 A: No, sir. He doesn't have a note. We through
- 15 the contractual equity into this with her and
- 16 I paid \$7,000 into it.
- 17 Q: I'm sorry. I thought and maybe I misunderstood
- 18 Mr. Bland the reason you gave her that was that
- 19 you assumed the debt that he owed hereby giving
- 20 her that percentage, is that correct?
- 21 A: By giving her equity.
- 22 Q: Equity?
- 23 A: Yes, sir.
- 24 Q: That percentage?
- 25 A: So no longer is it a debt, now it's equity.



1 Q: It no longer is a debt it's equity.

2 A: Yes, sir and that's what I'm speaking on to be
3 clear.

4 Q: Okay. So to the -- did that extinguish the
5 note?

6 A: No, sir.

7 Q: Did that ---

8 A: I think we -- I think we can both look and see
9 that that's not even nearly the entire total,
10 however what I did is acted on that option
11 which was to take 10 percent at \$21,000.

12 Q: Okay. And who got that, his mother?

13 A: BG Holdings Company. Yes, sir.

14 Q: His mother?

15 A: BG Holdings got that, sir.

16 Q: Which is -- I'm sorry, that would be Mr. Wells'
17 mother's company, right?

18 A: Yes, sir.

19 Q: Okay. So and she's the sole member?

20 A: Yes, sir.

21 Q: So it's her money?

22 A: Yes, sir.

23 Q: Okay. Now, so -- okay. That's number one,
24 number two -- well, let me go back. Did you
25 put \$12,500 in when you had your 2.7?



1 A: No, sir.

2 Q: Not ever?

3 A: No, sir not a dime.

4 Q: What'd you get -- what'd you get the 2 percent
5 for?

6 A: As I expressed earlier to you and as well as to
7 Mr. Montgomery that was given to me as a
8 consulting fee. What has -- I wanted to have
9 stake in the game.

10 Q: Right.

11 A: And then there was also the option of the
12 consulting fee.

13 Q: And -- and you who have never run a bar you're
14 going to consult?

15 A: Yes, sir. I wasn't consulting on the day-to-
16 day operations ---

17 Q: What were you consulting on?

18 A: As expressed to both you and to Mr. Montgomery
19 prior to this testimony I said that I was
20 consulting on the checks and balances of the
21 safety, the community relations and the overall
22 well being of the patrons in the establishment.

23 Q: And your previous experience in safety is, not
24 at guns, I know you make guns, but not guns,
25 safety in bars, what's your previous



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 experience, prior to the Pour House?

2 A: I have worked as you have stated, I worked in
3 security in an establishment so ---

4 Q: You were a bouncer, you weren't in charge of
5 security, were you?

6 A: Are you belittling my job, sir?

7 Q: Sir, I would never belittle you, that'd be hard
8 to do.

9 A: Okay. Well, honestly from what I learned is
10 better practices and then what was nice enough
11 is we took the time to consult with the City of
12 Columbia on their better practices. Like I
13 previously stated Captain Roberts was sent to
14 a training class in New York, he came down and
15 -- and relayed those to us not only verbally,
16 but with documentation that he sent to us.

17 Q: So you consulted with a consultant?

18 A: No, sir. We consulted with law enforcement,
19 which is ---

20 Q: Okay.

21 A: --- the end all be all.

22 Q: And what gave you special talent to do that?

23 A: The ability to play ---

24 Q: Listen?

25 A: No, sir. If -- I'd like to finish if that's



1 okay.

2 Q: Go ahead.

3 A: The ability to middle man and implement change
4 into an establishment that desperately needed
5 it.

6 Q: Okay. In terms of business you've run a bar
7 before?

8 A: No, sir. I've never claimed to.

9 Q: Okay. So in your business experience what
10 businesses have you run? I'm talking about you
11 business, your business, not working at Wild
12 Wing.

13 A: As I -- as I previously stated I never owned a
14 business before.

15 Q: Okay.

16 A: Yes, sir.

17 Q: And you got 2.7 for that. Okay. Just a couple
18 of other questions.

19 A: I think we're doing a pretty good job so far.

20 Q: And your opinion really matters. I don't have
21 any other questions.

22 A: Well, thank you, sir.

23 **THE COURT:** All right. Anything from the
24 Department?

25 **MR. RUONALA - CROSS-EXAMINATION BY MS. SHIELDS:**



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: Thank you, Your Honor. I really just want to
2 clear up something about this option purchase
3 agreement.

4 A: Yes, ma'am.

5 Q: So you have testified that you've paid \$7,000
6 towards the \$21,000 mentioned in E-1 of this,
7 correct?

8 A: Yes, ma'am.

9 Q: So -- and that is to increase your interest
10 from 2.778 percent to 10 percent?

11 A: Yes, ma'am.

12 Q: So will that be affective when you pay the
13 entire 21?

14 A: That's a great question. I was -- I leverage
15 it against, I said I want to go -- I want my
16 entire 10 percent now and I will pay it over a
17 schedule for the next three months.

18 Q: Okay. So as of right now you own 10 percent of
19 Five Points Roost, LLC?

20 A: As of -- my understanding is all the paperwork
21 is -- is in the process of being completed as
22 we speak.

23 Q: Okay.

24 A: We kind of got put on hold with some of the
25 other paperwork.



1 Q: Understand. So Ms. Wells' interest has
2 decreased?

3 A: It will be as a direct result of this
4 transaction, yes, ma'am.

5 Q: Okay. All right. Thank you. I don't have any
6 other questions, Your Honor.

7 **MR. MONTGOMERY:** Your Honor, I have just a couple of
8 things I want to clear up on re-direct.

9 **THE COURT:** All right.

10 **MR. RUONALA - REDIRECT EXAMINATION BY MR. MONTGOMERY:**

11 Q: If I could get you please, sir, and I -- I
12 think that the record is clear, but if -- if I
13 could get you -- first, Mr. Harpootlian asked
14 you something about not have an LLC. If I
15 could get you first to look at page 13 of the
16 record.

17 A: Which -- which operating, the operating
18 agreement?

19 Q: Of the Exhibit 1.

20 A: Okay.

21 Q: It's Exhibit 1 is just the DOR record.

22 A: Yes, sir.

23 Q: You're not at the DOR record.

24 A: Oh, I'm not? I'm sorry, I don't know if I have
25 that.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 MR. HARPOOTLIAN: I think the judge has it.

2 MR. MONTGOMERY: I'm sorry.

3 THE COURT: Here you go.

4 MR. MONTGOMERY: Thank you, Your Honor. If you'd
5 pass 2 to the court reporter I think it's been
6 entered into the record and needs to have the
7 right label put on it.

8 A: 14?

9 Q: Page 13.

10 A: Yes, sir. All right.

11 Q: And I think that's dated October 22nd.

12 A: October 27th.

13 Q: 27th, I'm sorry.

14 A: Yes, sir.

15 Q: If you could tell the Court what that is.

16 A: This is the assignment of interest.

17 Q: And that was where you got Mr. Phillips out of
18 the business, is that correct?

19 A: That is correct, sir.

20 Q: And that is why on October 27th you entered a
21 new operating agreement, isn't it?

22 A: It absolutely is.

23 Q: Okay. And so in fact if you look back in the
24 record also -- I'm sorry, I beg the Courts
25 indulgence to get to the right page.



1 **THE COURT:** Take your time.

2 Q: If you look on -- it never fails -- the record
3 contains a copy of your articles of
4 organization for the limited liability company
5 and it contains a certificate of good standing,
6 it's on page 9 of the record.

7 A: Yes, sir.

8 Q: If you'd look at page 9 it shows that the
9 company was organized on June 1st I believe if
10 you look at page ten actually.

11 A: Yes, sir.

12 Q: And there's a certificate of existence on page
13 11 which reflects that the company was
14 organized under the laws of the state on June
15 1st and it was given October 17th, is that not
16 correct?

17 A: Yes, sir, 100 percent.

18 Q: And did someone working on behalf of the
19 company obtain that certificate for purposes of
20 needing it for your ABL license?

21 A: Yes, sir.

22 Q: Okay.

23 **MR. MONTGOMERY:** And Your Honor, I just have one
24 other thing. There's been a lot of question
25 about prior lease, the prior lease I would move



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 to admit as Exhibit -- as Exhibit 3, it is
2 self-authenticating, it is a document that was
3 produced by the Department Of Revenue and is in
4 their file so I would say it's a self-
5 authenticating official document that's been
6 provided to both Mr. Harpootlian -

7 **MR. HARPOOTLIAN:** No objection, no objection.

8 **THE COURT:** Okay.

9 **MR. HARPOOTLIAN:** Oh, wait. she may have an
10 objection.

11 **MS. SHIELDS:** Can I see it?

12 **MR. MONTGOMERY:** Sure, I'm sorry.

13 **MS. SHIELDS:** You're saying this is the -

14 **MR. MONTGOMERY:** That's the lease.

15 **MS. SHIELDS:** --- prior lease?

16 **MR. MONTGOMERY:** The Pour House lease.

17 **MS. SHIELDS:** Okay. So this is -- this is not in
18 this?

19 **MR. MONTGOMERY:** No, ma'am.

20 **MS. SHIELDS:** Okay. I thought that's what you said.

21 I don't have any objections, Your Honor.

22 **THE COURT:** Have you had the court reporter mark it
23 already?

24 **MR. MONTGOMERY:** I have not, Your Honor.

25 **MS. SHIELDS:** Is it Pour House or Carolina Pour



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 House?

2 **MR. MONTGOMERY:** This was Carolina Pour House.

3 **MR. HARPOOTLIAN:** And that was when? Mike, when was
4 that? 2/14, 2/13?

5 **MR. MONTGOMERY:** This was August 11th, 2014, is when
6 it was filed with the Department Of Revenue.

7 **MR. HARPOOTLIAN:** And it was the Carolina Pour House
8 and then it became the Pour House?

9 **MR. MONTGOMERY:** I think it was Pour House and
10 became Carolina -

11 **MR. HARPOOTLIAN:** Carolina Pour House.

12 **MR. MONTGOMERY:** --- Pour House.

13 **MR. HARPOOTLIAN:** Okay. I knew it was one or the
14 other.

15 **MR. MONTGOMERY:** So I'm just going to admit that
16 there's been discussion about it and I just
17 thought it would be better to be admitted. I'm
18 not going to examine the witness on it.

19 **THE COURT:** That would be good, so it's admitted
20 without objection.

21 (Petitioner's Exhibit Number 3 was marked and
22 admitted for identification purposes.)

23 **MR. MONTGOMERY:** I don't have any further questions
24 of this witness.

25 **MR. HARPOOTLIAN:** No further questions.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 THE COURT: All right. So that's everything for
2 this witness then. You can step down.

3 A: Thank you, Your Honor.

4 MR. MONTGOMERY: Yes, Your Honor. The Petitioner
5 rests at this time.

6 THE COURT: All right. Is there going to be
7 anything from the Department at this time?

8 MS. SHIELDS: We don't plan on putting up any
9 witnesses, Your Honor.

10 THE COURT: Okay.

11 MR. HARPOOTLIAN: Beg the Court's indulgence one
12 moment.

13 THE COURT: Certainly.

14 MR. HARPOOTLIAN: Your Honor, then if it'll please
15 the Court, I'd call Chief Holbrook to the
16 stand, please.

17 WILLIAM HOLBROOK, having been duly sworn, testifies
18 as follows:

19 CHIEF HOLBROOK - DIRECT EXAMINATION BY MR.

20 HARPOOTLIAN:

21 Q: And may I call you Chief Holbrook?

22 A: Sure.

23 Q: And you're the Chief of Police of the City of
24 Columbia?

25 A: Yes, sir.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: And how long have you been the Chief of Police
2 at the City of Columbia?

3 A: Four years next month.

4 Q: Okay. And before you became -- before you came
5 to Columbia where were you employed?

6 A: I was the Police Chief in Huntington, West
7 Virginia.

8 Q: Okay. And before that?

9 A: I worked for the North Carolina State Bureau of
10 Investigation in Charlotte.

11 Q: And -- and how long have you been in law
12 enforcement, maybe I'll just cut to the chase
13 on this.

14 A: 27 years.

15 Q: Okay. Where you from as we say around here,
16 originally?

17 A: I'm originally from West Virginia with most of
18 my career in Charlotte, North Carolina.

19 Q: Okay. And you've always been involved with
20 policing, correct?

21 A: Yes, sir.

22 Q: And you've been here about four years and have
23 you come to know the area that we lovingly call
24 Five Points?

25 A: I have.



1 Q: And have you had issues as the Chief of Police
2 with Five Points?

3 A: Yes.

4 Q: Okay. Now, I'm going to ask you about a
5 specific place and a specific location and
6 rather than spending a lot of time talking
7 about the general conditions in Five Points,
8 are you familiar with a place called the Pour
9 House?

10 A: I am.

11 Q: And tell the court please how you became
12 familiar with the Pour House, when, what
13 brought it to your attention?

14 A: Well, it was one of a number of bars that
15 stayed open late night that was a popular bar
16 in Five Points. It was one that required an
17 extraordinary amount of police service in and
18 around the bar and again it was one of several
19 bars that would fall into that category as we
20 attempted to police the -- the Greater Five
21 Points area.

22 Q: Okay. Now, you have looked at some statistics
23 and -- well, first of all did you undertake
24 some action, official action against the Pour
25 House at some point?



1 A: Yes, sir.

2 Q: And when was that?

3 A: In March of 2000 -- or excuse me, in, we took
4 official action in April of 2017.

5 Q: When had -- when had you begun -- and when you
6 say official action, you sought to declare it
7 a nuisance; is that correct?

8 A: That's correct.

9 Q: Which would eliminate the business license; is
10 that correct?

11 A: That's correct.

12 Q: Now, did you at some point prior to April begin
13 a process that ended up with, culminated with
14 you filing a petition to declare it a nuisance?

15 A: We did.

16 Q: When did that begin?

17 A: We were beginning, probably about a couple of
18 years ago we began pretty comprehensive revue
19 of all the calls for service for bars that we
20 felt like were inconsistent with our
21 expectations of just safety and quality of life
22 in that particular area we started compiling
23 notebooks when we would have a call -- call for
24 service or a serious incident that was
25 documented in a report and we would maintain



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 those notebooks in the region office.

2 Q: What's a call for service, what does that mean?

3 A: Officers receive a call over their radio where
4 a crime is being reported or a disturbance or
5 it was something that they would observe first
6 hand.

7 Q: And -- and did you put together numbers, I'm
8 not talking about the specific establishment,
9 but it's located at 800 Harden Street which
10 would be the corner of Harden and Greene,
11 correct?

12 A: Correct.

13 Q: And did you receive -- have you looked at
14 numbers on how many calls for service over a
15 one year period back when you were doing this
16 research?

17 A: Well, I don't -- I couldn't tell you over a one
18 year period, I, we looked at over a ten year
19 period ---

20 Q: Okay.

21 A: --- at that particular area.

22 Q: Okay.

23 A: It was over 600 calls for service.

24 Q: 600 calls for service, is that high for a
25 specific geographic?



1 A: It seemed to be very high to me.

2 Q: Okay. Did you record any specific criminal
3 conduct at the Pour House, inside 800 did you
4 have any involvement in criminal activity
5 there?

6 A: We did.

7 Q: And over what period of time and how many?

8 A: So when -- when we began more of a
9 comprehensive review for the Pour House in
10 particular we found focused on when the
11 business, the last business license was awarded
12 in 2016 we focused on that period of time up
13 and to the event where the individuals
14 seriously assaulted in front of the Pour House.

15 Q: And you're speaking of the incidence on Saint
16 Patrick's Day which I think we've all seen on
17 television where Mr. Wells was accused of
18 breaking the jaw of a patron of his bar, is
19 that correct?

20 A: That's correct.

21 Q: I'm not saying whether it was justified, these
22 are the charges, but I'm not saying whether
23 that was justified or unjustified, but that was
24 the -- somebody signed -- signed a warrant for
25 him, right?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 A: Yes, sir.

2 Q: And he was arrested?

3 A: Yes, sir.

4 Q: But you had how many instances there
5 culminating with that?

6 A: We -- we had 23 calls for service that resulted
7 in a report being made and some type of action
8 taken.

9 Q: And that's not just a I need a ride home or
10 there's this drunk girl it's a, there's a --
11 there's got to be some sort of criminal
12 activity.

13 A: The majority were fights and assaults.

14 Q: Fights and assaults in the bar or outside, just
15 outside the bar?

16 A: In the bar, something that again these -- these
17 23 incidents were incidents that we attributed
18 specifically to the bar through investigation.
19 There is numerous more calls for service, but
20 we -- we really aired on -- on the side of
21 caution in our investigation to do our due
22 diligence, we focused on those 23 specific
23 incidents.

24 Q: Okay. And after you did that did you file and
25 I'm not sure if you actually are the decider on



1 it, public nuisance statute on the business
2 license, is that correct?

3 A: Yes, sir.

4 Q: And I guess there's some sort of new process
5 involved and you notified Mr. Wells -- that's
6 Mr. Wells back there (indicating), do you
7 remember him?

8 A: I do.

9 Q: Okay. Did you notice Mr. Wells that you were
10 going to declare him a nuisance?

11 A: We did.

12 Q: And did he -- did you afford him a hearing?

13 A: We did.

14 Q: Did he come to the hearing?

15 A: Yes, sir.

16 Q: And did you complete the hearing?

17 A: We did.

18 Q: And what was the result?

19 A: They agreed to surrender their business license
20 ---

21 Q: They, Mr. Wells?

22 A: --- Mr. Wells and his attorney agreed, provide
23 a specific date to surrender that license, we
24 agreed to those terms.

25 Q: Do you remember when that was, what the date



1 was?

2 A: The date of surrender was May 22nd of 2017.

3 Q: Okay. So May 27th, 2017 on it was illegal for
4 him to operate any sort of any business ---

5 **MR. MONTGOMERY:** Object to the question, Your Honor.
6 This is leading on his witness among other
7 things.

8 Q: Well, what day did he give up his business
9 license?

10 A: He -- he gave it up on May 22nd of 2017.

11 Q: Okay. Is it legal for anybody to operate a
12 business in the City of Columbia without a
13 business license?

14 A: No, sir.

15 Q: Okay. Did you ever check to see if he was
16 closed?

17 A: Yes.

18 Q: Was he closed?

19 A: Yes.

20 Q: From May 22nd on?

21 A: Yes.

22 Q: Okay. Now, is the public area surrounding the,
23 that, this -- this purposed location which is
24 800 Harden Street been the source of constant
25 law enforcement problems or significant



1 problems with public intoxication?

2 A: Yes.

3 Q: Is it near or near other locations that have
4 been either the constant source of law
5 enforcement problems or are locations where
6 young people congregate and loiter?

7 A: Yes, sir.

8 Q: Is -- if this permit is granted to put a bar
9 back in there will that place a strain upon
10 police to adequately protect the community, is
11 that an additional factor?

12 A: It could.

13 Q: Okay. Is this an area that's heavily traveled?

14 A: Yes.

15 Q: That's Harden and Green?

16 A: Yes.

17 Q: And actually there was a fatality there
18 probably three years ago where a intoxicated
19 young man hit another young man crossing the
20 street right at Harden and Green, is that
21 correct?

22 **MR. MONTGOMERY:** Your Honor, I -- again, Mr.
23 Harpootlian is testifying rather than asking
24 the witness questions.

25 Q: What if anything do you know about a motorist



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 being hit by a vehicle at the corner of Harden
2 and Green Street about three years ago?

3 A: I know that there was a pedestrian struck by a
4 vehicle.

5 Q: Okay. And that location, in your opinion, when
6 it was the Pour House, was not suitable to be
7 a place that -- that served alcohol, is that
8 correct?

9 **MR. MONTGOMERY:** I'm going to object to the
10 question. He's -- he's calling for an opinion
11 which is putting the Chief in the position of
12 being an expert witness, he hasn't been
13 identified as an expert witness and it's an
14 improper question under the circumstances.

15 **MR. HARPOOTLIAN:** Your Honor, I'll withdraw the
16 question.

17 **THE COURT:** Let's stick with the facts.

18 **MR. HARPOOTLIAN:** Yes, ma'am.

19 **THE COURT:** Thank you.

20 Q: Is the surrounding commercial, the immediate
21 surrounding area?

22 A: The immediate is businesses.

23 Q: Yes. And then beyond that is what?

24 A: The perimeter is residential.

25 Q: Residential. Okay. Give me just a minute and



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 I may be done. Let me make sure I have no
2 further questions. Thank you, Chief, thank you
3 for being here today, I know you're very busy
4 and --- oh -- oh, yeah, and you're here because
5 I subpoenaed you, right?

6 A: Yes, sir.

7 Q: Okay. It wasn't a voluntary appearance on your
8 part?

9 A: No, sir, it wasn't.

10 Q: As a matter of fact, you brought your lawyer
11 with you just in case, right?

12 A: Just in case.

13 Q: Thank you. Please answer any question that --
14 that either DOR or Mr. Montgomery has.

15 **THE COURT:** Mr. Montgomery.

16 **CHIEF HOLBROOK - CROSS-EXAMINATION BY MR. MONTGOMERY:**

17 Q: Thank you Your Honor, may it please the court.
18 Chief Holbrook, in fact, the location at 800
19 Harden Street, Five Points Roost has been
20 operating now for several months hasn't it?

21 A: Months?

22 Q: Yes, sir.

23 A: I'm not familiar with it being open for months,
24 but I know it's been opened recently.

25 Q: Okay. And it would have been opened in



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 December it's been a couple of months, right?

2 A: Yes, sir.

3 Q: Okay. Have you had any calls or police
4 presence required there since they reopened.

5 A: We -- we have a police presence there Thursday
6 through Saturday consistently and throughout
7 Five Points. I'm not aware of any calls for
8 service at that specific location.

9 Q: Are you aware of any incidents or other
10 problems that have occurred there since the
11 time that it's been reopened.

12 A: No, sir, I'm not.

13 Q: Are you acquainted with Mr. Ruonala?

14 A: No.

15 Q: Are you acquainted with Mr. Bland?

16 A: No.

17 Q: Okay. Now, prior to coming to testify today
18 it's true you met with Mr. Harpootlian and
19 you've met with the protestors?

20 A: Yes.

21 Q: What did you discuss in that meeting?

22 A: Exactly what we discussed today.

23 Q: Did you just plan your testimony?

24 A: Did I what?

25 Q: Did you just plan your testimony?



1 A: No. I answered their questions.

2 Q: Okay. And when you did that did you provide
3 any documents in response to this subpoena?

4 A: Just the FOIA documents.

5 Q: And -- and what were those?

6 A: Calls for service over the last ten years.

7 Q: Okay. And did you do any summaries of those
8 calls for services?

9 A: No, sir.

10 Q: Did you look at them on a year -- a yearly
11 basis to see when they occur?

12 A: No, sir.

13 Q: Would you be surprised to know that if you
14 looked at them on a yearly basis there's some
15 interesting trends?

16 **MR. HARPOOTLIAN:** Your Honor, I believe he's asking
17 him to give an opinion about trends. I would
18 object to him asking for any opinion about
19 anything.

20 **MR. MONTGOMERY:** Your Honor, I don't believe I asked
21 him for his opinion, I asked him if he be ---

22 **MR. HARPOOTLIAN:** Would he be surprised ---

23 **MR. MONTGOMERY:** --- surprised.

24 **MR. HARPOOTLIAN:** --- if there was trends, he can
25 say yes or no to that I suppose, but if this is



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 going to where he's going to testify to trends
2 which aren't in the record and ask the Chief to
3 agree or disagree as to whether or not that
4 means something I would object to and I'm just
5 ---

6 **THE COURT:** Right.

7 **MR. HARPOOTLIAN:** --- trying to get ahead of the
8 ball here.

9 **THE COURT:** If -- if he gets there ---

10 **MR. HARPOOTLIAN:** If he gets there.

11 **THE COURT:** --- then we'll entertain your objection
12 at that time.

13 **MR. HARPOOTLIAN:** Thank you, Your Honor. I just
14 wanted to try to ...

15 Q: Chief, how many calls for service do you have
16 in the City of Columbia on an annual basis?

17 A: About 165,000.

18 Q: So you have 165,000 calls for service over the
19 city and how many were you saying you have at
20 the 800 block of Harden Street over a ten year
21 period?

22 A: This would be reports of arrests or citation
23 that was 623 I think.

24 Q: So 623 over ten years about 62 a year on the
25 average, would you agree with me on that math?



- 1 A: If you say so.
- 2 Q: Well, I mean 623 divided by 10, just move the
3 decimal one it's 62.3 right?
- 4 A: Okay.
- 5 Q: Okay. So you have 62.3 incidents there and you
6 have 170,000 calls for service a year, is that
7 correct?
- 8 A: 165,000.
- 9 Q: Okay. And what other areas of the city have
10 you looked at as it relates to calls for
11 service or what arrests?
- 12 A: We looked in the Vista and we looked --I mean
13 we analyze crime data all the time.
- 14 Q: How about other areas in Five Points?
- 15 A: We look at crime data all the time.
- 16 Q: An you'd agree with me that when you look at
17 the crime true and accurate copy in this area
18 you can't attribute to any one location, can
19 you?
- 20 A: No, I wouldn't agree with that.
- 21 Q: Okay. And why not?
- 22 A: Because we -- when we look at data specific to
23 a location we look at reports that have been
24 made and the information was provided for those
25 reports, the information was provided during an



1 investigation and there is a nexus for a
2 specific location and that's how we established
3 that connection.

4 Q: Who makes that determination?

5 A: The evidence does.

6 Q: Okay. Somebody has to analyze the evidence,
7 the evidence doesn't say I'm at this location,
8 does it?

9 A: It does sometimes, absolutely.

10 Q: If it occurred inside the location perhaps, but
11 when you look at these and you talk about
12 things that occurred outside that you
13 attributed somebody has to make a decision,
14 don't they?

15 A: Somebody would make an admission or -- or
16 provide information that tied it to the
17 establishment.

18 Q: How many incidents do you know of occurred
19 there in 2017?

20 A: I don't know off the top of my head.

21 Q: Okay. And did you personally prepare any of
22 the documents or give you the numbers or was
23 that done for you?

24 A: That was done for me.

25 Q: So what you're testifying to is what someone



1 told you or provided?

2 A: Correct.

3 Q: And any report you have that's written up is
4 often based upon again, what someone told your
5 officer unless the officer's there in their own
6 presence, isn't it?

7 A: That's correct.

8 Q: So there's a certain issue of reliability
9 that's inherent in every one of those reports,
10 isn't it?

11 A: Sure.

12 Q: And do you know on an annual basis when you
13 talk about 600 calls for service over the
14 course of that ten years, do you know on an
15 annual basis what those numbers were?

16 A: I'm not sure I understand what you're asking.

17 Q: Well, do you know in any given year what the
18 number was rather than this aggregate 600
19 number?

20 A: Not off the top of my head I don't.

21 Q: Okay. And would it be important if you were
22 looking at the affect of a location to look at
23 what happened in any given year so you could
24 say who was running it and what they were doing
25 there?



1 A: Specific to a location?

2 Q: Yes, sir.

3 A: Sure, you would look at trends.

4 Q: Now Chief, you mentioned the license issue with
5 the Pour House and the -- and the business
6 license, isn't it true that the city ordinance
7 involving the determination of whether or not
8 a late night operating permit is there or is
9 taken away has a gradual removal based on
10 offenses is there?

11 A: The crime ordinance.. As a gradual ---

12 Q: In other words there's a first offense, second
13 offense, third offense and fourth offense they
14 lose their permit?

15 A: They could, yes.

16 Q: Okay. And, in fact, the business license
17 ordinance that you were perceiving under with
18 Mr. Wells doesn't have any of that does it? It
19 puts that determination solely in your hands.

20 A: The nuisance ordinance?

21 Q: Yes, sir.

22 A: Yes.

23 Q: And there's no due process in that other than
24 the fact that you have deemed to meet with
25 people and have a hearing because the one



1 instance itself doesn't require any does it?

2 A: It requires the -- us being able to establish
3 that there was exceptional amount of police
4 service required or Xs in a circumstance or an
5 egregious act.

6 Q: Okay. And how many other locations have you
7 operated under with that statute?

8 A: Just one other one.

9 Q: Okay. And that was after that wasn't it?

10 A: It was.

11 Q: And that wasn't in a case where a member of the
12 general assembly was representing a person who
13 was claiming to be injured was it?

14 **MR. HARPOOTLIAN:** Your Honor, I object. This is --
15 this is -- a member of the general assembly
16 happened to be a lawyer, represents the guy
17 that guy that got his jaw broken at -- by Mr.
18 Wells and -- and that impunes the character of
19 this witness. Somehow he started this nuisance
20 process because the lawyer for the guy that got
21 punched in the face and that guy broke his jaw
22 happens to be a member of the legislature,
23 that's inappropriate and I move it be struck
24 from the record.

25 **MR. MONTGOMERY:** Your Honor, it's a proper question.



1 It's a question of fact -

2 **MR. HARPOOTLIAN:** Well, I know ---

3 **MR. MONTGOMERY:** --- and it's relevant under Rule
4 401 because it has a tendency to prove or
5 disprove a fact.

6 **MR. HARPOOTLIAN:** If it please the Court, Your
7 Honor. He needs to ask him, did you do this
8 because did anybody that's a member of the
9 General Assembly communicate with you and watch
10 you do this as a nuisance, not this innuendo
11 and insinuation, that's horrible.

12 **THE COURT:** There was a lot wrapped up in that
13 question, Mr. Montgomery. If you could maybe
14 break it down ---

15 **MR. MONTGOMERY:** Okay. I'll be happy to, Your
16 Honor.

17 **THE COURT:** --- to its component parts.

18 **MR. HARPOOTLIAN:** Thank you very much.

19 Q: Chief, in both cases where you have invoked
20 this statute there's been some public incident
21 where someone was harmed, wasn't it?

22 A: Yes.

23 Q: Hasn't there?

24 A: Yes.

25 Q: And it hasn't been invoked based on this



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 theory of problems as much as it has been a
2 triggering incident?

3 A: That's correct.

4 Q: Okay. And the triggering incident is something
5 that's public that brings something in
6 question. The other time it was invoked was
7 when there was a shooting in the Vista, wasn't?

8 A: It was and we also invoked it on Two Notch
9 Road.

10 Q: Okay. And what was the circumstance when you
11 invoked it on Two Notch Road?

12 A: An extreme amount of calls for service and
13 criminal activity.

14 Q: And where was that on Two Notch?

15 A: In the motel.

16 Q: And how many calls for service did you have
17 there?

18 A: I -- I don't recall off the top of my head.

19 Q: More than 46?

20 A: Yes.

21 Q: Okay. And, in fact, as you've testified you've
22 never reached a determination as to whether in
23 fact there was a nuisance located at 800 Harden
24 Street?

25 A: No, I did reach that determination.



1 Q: And how did you reach that determination?

2 A: Based on our investigation.

3 Q: Okay. And I guess perhaps I'm asking the
4 question there was never an actual finding or
5 action taken in that regard other than you had
6 a notice and issue, they had a hearing, right?

7 A: The action taken was you agreed to surrender
8 the business license on behalf of the client.

9 Q: Okay. All right. Chief, again what
10 communication do you have with your officers in
11 the Five Points area on a regular basis about
12 what's happening there?

13 A: We get a morning report, I get a morning report
14 about 5:30 every morning of any significant
15 incident that occurred the night before, we
16 have weekly Command Staff Briefings, I require
17 a phone call of any major incident that occurs,
18 on Thursday through Sunday were given an
19 additional report of incidents that occurred
20 specific to Five Points, the number of officers
21 that worked, the man hours in the -- in the
22 action that -- that took place, citations or
23 arrests.

24 Q: Okay. What's the trend been in Five Points?
25 Things been getting better there as far as the



1 police presence required?

2 A: Trend as far as how many officers we're putting
3 there or ---

4 Q: Trend as far as the incidents that you're
5 having to deal with.

6 A: A lot of the calls for service are I guess how
7 I would explain is self generated calls for
8 service are probably higher and calls for
9 service and because they are self generated it
10 cuts down on calls for service from the general
11 -- from the general public or an establishment.

12 Q: What's a self-generated calls for service, I'm
13 not sure I understand.

14 A: Officer present sees an incident, takes action.

15 Q: Okay. Have your -- what's your incident count
16 down there over the last three years? You
17 don't know that?

18 A: I don't have any idea.

19 Q: Okay. Do you know if your officers -- what
20 establishments your officers are welcome in and
21 what establishments don't like them to come in?

22 A: I couldn't tell you that.

23 Q: Do they know?

24 A: I'm sure they would have an opinion.

25 Q: Do they report any of that opinion to you?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 A: I'm not aware of any particular establishment
2 that's more officer friendly than another one.

3 Q: Okay. And that's because no one's expressed
4 that to you or you haven't inquired or what's
5 the basis for that?

6 A: Bases is I don't know of an establishment that
7 has a reputation for that or not.

8 Q: Okay. And what have you undertaken if anything
9 to learn about what establishment might have a
10 reputation or not, anything in particular?

11 A: Just what I previously stated, what's reported
12 to me.

13 Q: Okay. Do you maintain any statistics or
14 rankings of problems at particular locations?

15 A: Statistics, I wouldn't refer to it as rankings.
16 We maintain notebooks as I stated earlier.

17 Q: Okay. And how do you notebooks as they relate
18 to issues in different parts of town compare?

19 A: We don't do them for other parts of town, we do
20 it for the bars in Five Points.

21 Q: You said you only do it in Five Points?

22 A: The notebooks?

23 Q: Yes, sir.

24 A: We only keep notebooks on bars in Five Points,
25 yes.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: So you don't keep notebooks on the 50 some odd
2 bars in the Vista?

3 A: If we would have a -- a bar that we have
4 repeated calls for service then we would.

5 Q: And how many notebooks do you keep on bars in
6 Five Points?

7 A: They have a notebook, I think, for most of
8 them.

9 Q: During the time you've been Chief has anything
10 changed in Five Points that makes it less or
11 more suitable than it was when you started?

12 A: Well, it would probably depend on who you ask.

13 Q: Okay.

14 A: Perception is reality and I know it requires an
15 extraordinary amount of police service to
16 police Five Points.

17 Q: Why do you think that is?

18 A: Because we have a heavy concentration of bars
19 in a small defined area.

20 Q: All right. Thank you, Chief. I don't have any
21 further questions.

22 **THE COURT:** All right. Anything from the
23 Department?

24 **MS. SHIELDS:** I just have a quick follow-up, Your
25 Honor.



CHIEF HOLBROOK - CROSS-EXAMINATION BY MS. SHIELDS:

Q: Chief Holbrook, you testified earlier that you, that your officers have a police presence at Five Points Roost Thursday through Saturday, correct?

A: We have a police presence in -- in Five -- Five Points general area proper not specific to the business location.

Q: Okay. Is that something that has been consistent throughout the past four years that you've been Chief?

A: Yes.

Q: Okay. So that hasn't increased or decreased within the past four years.

A: A specific detail that polices after hours and -- and during -- during the late night has been static since I've been here. Our numbers ebb and flow based on time of year and the events going on.

Q: Okay. And just to recap have you had any calls for service at Five Points Roost since it's been operating?

A: Not that I'm aware of.

Q: Not that you're aware of. Do you have -- are you aware of any problems that have arisen from



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Five Points Roost since it's been operating?

2 A: No, I'm not.

3 Q: I don't have anymore questions, Your Honor.

4 MR. HARPOOTLIAN: No further questions.

5 THE COURT: All right. Nothing else from you?

6 MR. MONTGOMERY: Nothing, Your Honor. Thank you.

7 THE COURT: All right. You can step down now.

8 MR. KIMBLE: Your Honor, I'm Mike Kimble with City
9 of Columbia. We have a City Council Meeting
10 going on right now as we speak and I ask that
11 the Chief be released.

12 MR. HARPOOTLIAN: No objection. And I appreciate
13 your time.

14 THE COURT: Thank you for coming.

15 MR. KIMBLE: Thank you also.

16 MR. MONTGOMERY: Thank you, sir.

17 MR. HARPOOTLIAN: Thank you, Mike.

18 THE COURT: Would y'all like to take a five minute
19 break?

20 MR. HARPOOTLIAN: Well, if I -- let me -- let me
21 sort of say this. We have a number of
22 witnesses, not a huge number, five, some of
23 them will be very brief. How late do you
24 intend on going this evening?

25 THE COURT: I am willing to stay as long as y'all



1 are willing to stay.

2 **MR. HARPOOTLIAN:** Well, I'm -- I'm ---

3 **THE COURT:** But I do have some staff that I need to

4 ---

5 **MR. HARPOOTLIAN:** Could we go to 5:00 o'clock, let
6 me call one more witness and -

7 **THE COURT:** Oh, certainly, we can go to 5:00
8 o'clock.

9 **MR. HARPOOTLIAN:** --- and then we can -

10 **THE COURT:** But if y'all want to go after 5:00
11 o'clock, I need to start ---

12 **MR. HARPOOTLIAN:** I'd prefer not to tonight and then
13 we come back tomorrow afternoon, we can finish
14 the witnesses, make final arguments and talk
15 about when we're going to do the Rooftop.

16 **THE COURT:** Any objection to that?

17 **MR. MONTGOMERY:** No. What time are you talking
18 tomorrow, 2:00?

19 **MR. HARPOOTLIAN:** 2:00, 2:30.

20 **THE COURT:** I was thinking 2:00 o'clock ---

21 **MR. HARPOOTLIAN:** Okay.

22 **THE COURT:** --- just because I'm not sure how long
23 my morning hearing will last, but I know, I'm
24 almost positive we'll be done by 2:00.

25 **MR. MCCABE:** Your Honor, if I may. I'm your morning



1 hearing tomorrow morning.

2 **THE COURT:** Oh, you are, that's right.

3 **MR. MCCABE:** Yes, ma'am. Yes, ma'am. We have, I
4 believe a single protestant and a small issue
5 with advertising so I do not think that hearing
6 tomorrow morning will go past noon and I -- I
7 don't think ---

8 **THE COURT:** Okay.

9 **MR. MCCABE:** --- that's going to happen.

10 **THE COURT:** Well, why don't we reconvene at 1:00
11 tomorrow in that case.

12 **MR. MONTGOMERY:** Perfect. Perfect.

13 **THE COURT:** Would that be better for you?

14 **MR. MONTGOMERY:** Your Honor, I have just a client
15 that, I mean, if the court will excuse him is
16 not going to be able to be here until 2:30
17 tomorrow and wasn't planning on being here
18 tomorrow at all and it's ---

19 **THE COURT:** That's fine. Yeah, I understand this is
20 sort of a late breaking thing ---

21 **MR. HARPOOTLIAN:** We don't have a problem with that.

22 **THE COURT:** --- as long as y'all are comfortable
23 with you going forward representing him without
24 his presence here until a little bit later.

25 **MR. HARPOOTLIAN:** He actually represents the LLC, so



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 that's ---

2 **MR. MONTGOMERY:** Well, he's a member, but yes. Adam

3 -- Adam is who is not going to be here.

4 **MR. HARPOOTLIAN:** Oh, okay.

5 **MR. MONTGOMERY:** And I ---

6 **MR. HARPOOTLIAN:** Stephen will be here?

7 **MR. MONTGOMERY:** --- have him here if for no other
8 reason just to keep you in line, but.

9 **MR. HARPOOTLIAN:** No. Somebody else -- somebody
10 else is doing a very good job of that.

11 **THE COURT:** That's my job, Mr. Montgomery.

12 **MR. MONTGOMERY:** I think ---

13 **THE COURT:** Maybe I'm doing a Poor job of it, but
14 that is my job.

15 **MR. MONTGOMERY:** You're doing a wonderful job,
16 Judge, but I think Mr. Harpootlian often
17 requires extra help.

18 **MR. HARPOOTLIAN:** Offer -- you know, Your Honor,
19 every -- every courtroom needs a bouncer.
20 Okay. So and how do you feel about all that?

21 **MS. SHIELDS:** I'm fine.

22 **MR. HARPOOTLIAN:** Okay.

23 **THE COURT:** You're okay?

24 **MS. SHIELDS:** Uh-huh.

25 **THE COURT:** So shall we take a three minute break.



1 MR. HARPOOTLIAN: Great.

2 MR. MONTGOMERY: I'm fine.

3 MR. HARPOOTLIAN: I'm just.

4 MR. MONTGOMERY: Let's take a three minute break,
5 that'd be great.

6 MR. HARPOOTLIAN: That's right.

7 THE COURT: Okay. All right. Very quick break.

8 (Off the Record)

9 THE COURT: All right. Y'all have a seat.

10 MR. HARPOOTLIAN: Your Honor, I'd like to call Anna
11 Edwards.

12 THE COURT: Okay.

13 ANNA EDWARDS, having been duly sworn, testifies as
14 follows:

15 MS. EDWARDS - DIRECT EXAMINATION BY MR. HARPOOTLIAN:

16 Q: Ms. Edwards, state your full name for the
17 record, please.

18 A: Anna Edwards.

19 Q: All right. And Ms. Edwards, where are you
20 employed?

21 A: University of South Carolina.

22 Q: And how long have you been so employed?

23 A: 13 years.

24 Q: Okay. And prior to that what did you do?

25 A: I worked as a graduate assistant at the



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 University of South Carolina.

2 Q: Okay. And what do you do at the University of
3 South Carolina?

4 A: I currently serve as the Associate Vice
5 President for Student Life.

6 Q: Okay. And as part of your duties as whatever
7 it was you just said, what's the, say it again.

8 A: Associate V.P. for Student Life.

9 Q: Okay. You have looked at data concerning --
10 concerning alcohol consumption and the impact
11 of that on the students at Carolina, correct?

12 A: Correct.

13 Q: And did you compile a, what's called a
14 University of South Carolina Columbia Alcohol
15 EDU for College Impact Report?

16 A: I didn't compile the report, but we
17 administered the survey that provides the data
18 for the report.

19 Q: Okay. And this is a report that's kept in the
20 ordinary course of business at USC.?

21 A: Yes.

22 Q: And it is data?

23 A: Right.

24 Q: You're not here to give an opinion today?

25 A: No.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: Just to -- just to tell the Court what the data
2 is that was gathered by the University of South
3 Carolina that you supervised and maintained in
4 the ordinary course of business, correct?

5 **MR. MONTGOMERY:** And I understand and I'm trying
6 to bear with Mr. Harpootlian, but I wish he
7 would lead a little less with his own
8 witnesses.

9 **MR. HARPOOTLIAN:** I'm just cutting to the chase.

10 **THE COURT:** He's just trying to lay a foundation for
11 the document.

12 **MR. HARPOOTLIAN:** Right. Okay. So, Your Honor, I
13 would at this point offer this document --
14 well, let me show it to her.

15 Q: Is this the document we're talking about?

16 A: Yes.

17 Q: And it is the impact report for 2/16 to 2/17?

18 A: Yes.

19 Q: And it's the impact on the student's of the
20 University of South Carolina, these are the
21 alcohol use?

22 A: Yes. It's a survey that we administer to all
23 first year students 23 years of age and
24 younger, fall semester and they're required to
25 complete it prior to spring course



1 registration.

2 Q: Okay. And it's a survey of the students.

3 A: Right.

4 Q: Okay. And there's no opinions in here, this is
5 just data, correct?

6 A: Right.

7 **MR. MONTGOMERY:** Your Honor, I'm going to object to
8 that characterization. The Court can look at
9 the document, but the document does not just
10 contain data from the University of South
11 Carolina and I mean I'd be happy to voir dire
12 the witness if the Court would like me to do
13 about this document, but the simple fact is
14 this is not merely data that was compiled by
15 the University of South Carolina in this
16 document. This document is actually and while
17 Ms. Edwards may be testifying that it's from
18 her it's actually prepared by something called
19 EVERFI which has a mission statement in here
20 among other things saying what it does for
21 universities and it talks about EVERFI's
22 experience in higher education, the benefits of
23 partnering with EVERFI, ADU for college which
24 is apparently a program that EVERFI
25 administers, it talks about a number of things



1 and reaches a number of conclusions which are
2 not on their face information that this witness
3 has compiled or is familiar with and so Mr.
4 Harpootlian's not trying to have this witness
5 offer data or statistics, but opinions derived
6 there from.

7 **MR. HARPOOTLIAN:** Your Honor, let me -- I'm not
8 going to offer this exhibit at this time. I am
9 going to ask her some questions and she's going
10 to refer to the exhibit and we'll go through
11 how all this happened, how all this was put
12 together and maybe at the end of testimony I'd
13 offer this into evidence, this is something
14 she's going to refer to.

15 **THE COURT:** Okay.

16 **MR. HARPOOTLIAN:** Okay.

17 **MS. SHIELDS:** Your Honor, may we ask that I have a
18 copy? I've never even seen this document.

19 **THE COURT:** I'm sorry.

20 **MR. HARPOOTLIAN:** I ---

21 **MS. SHIELDS:** No, it's not her fault. I just ---

22 **MR. HARPOOTLIAN:** I e-mailed it. That's why he
23 objected to it this morning. You got it
24 through email, right?

25 **MR. MONTGOMERY:** I got an email yesterday, yes.



1 MR. HARPOOTLIAN: You don't have another copy of
2 that, do you?

3 MR. MONTGOMERY: I do not unfortunately.

4 MR. HARPOOTLIAN: Can we have an extra -- I'm sorry,
5 I thought I ---

6 THE COURT: We can -- we can get a copy made.

7 MR. HARPOOTLIAN: Thank you. That's the one ---

8 THE COURT: Just one?

9 MR. HARPOOTLIAN: --- I'm going to offer into
10 evidence. Just one because we need one for her
11 and then that one, the original for the
12 witness, and I have a copy that's all marked
13 up.

14 MS. SHIELDS: I appreciate it.

15 MR. HARPOOTLIAN: Sorry. We -- it ---

16 MS. SHIELDS: You're all right.

17 MR. HARPOOTLIAN: --- may have been two days ...

18 MS. SHIELDS: I'm sorry? I appreciate it, thank
19 you. Yep, this is one. Thank you.

20 Q: Okay. Let's hand you that document is what
21 you're going to use to refresh your memory at
22 this point. So what is Alcohol EDU?

23 A: Alcohol EDU is an online assessment that we
24 require of all new students 23 years of age and
25 younger to complete as a new student at the



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 University and it's required for the following
2 semester's registration for their courses.

3 Q: And so you gathered, when you say a survey?

4 A: It's an online survey that's taken in three
5 different parts. Survey one is taken prior to
6 students arriving to the University, usually
7 starts in July, the second survey is taken
8 after 45 days so about six weeks after being
9 on-campus.

10 Q: Okay. Well, how about go to a profile of your
11 students drinking behavior and -- and let me
12 ask you this while you're doing that, EVERFI,
13 are they the gatherer of the data?

14 A: Yeah.

15 Q: That's all they do?

16 A: They're a national company that has alcohol and
17 drug prevention assessments.

18 Q: Okay. So if you go to highlights from your
19 data ---

20 **MR. MONTGOMERY:** I'm going to object right here.
21 That testimony right there says why this is
22 hearsay, the data was gathered by EVERFI, this
23 document was prepared by EVERFI.

24 **MR. HARPOOTLIAN:** Well, perhaps I can clarify that.

25 Q: Who hired EVERFI?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 A: The University.

2 Q: South Carolina?

3 A: Yes.

4 Q: And did you supervise the -- or participate in
5 the generation of this report?

6 A: I supervise the way in which we require
7 students to complete the report.

8 Q: Okay. And so that -- the data was collected?

9 A: Right.

10 Q: And then EVERFI generates reports based on the
11 data?

12 A: Right.

13 Q: I mean the data's the data.

14 A: Right.

15 Q: Correct?

16 A: Yeah. We don't do anything with the data.

17 Q: Okay.

18 **MR. HARPOOTLIAN:** Your Honor, it's ---

19 Q: And this kept in the ordinary course of
20 business?

21 A: Absolutely.

22 **MR. HARPOOTLIAN:** I think this is not hearsay, I
23 think there's an exception, it's complicated,
24 it's a document kept in the ordinary course of
25 business and what he would suggest is we have



1 to get somebody her from EVERFI who would have
2 all the documents, all the interviews and then
3 we couldn't do a compilation of those we have
4 to go through one at a time, this is done all
5 the time statistical gathering, this is -- this
6 is a -- the University of South Carolina's
7 evaluation of students who are using alcohol,
8 what their patterns are and in terms of the
9 community considerations the Your Honor I
10 believe is one of the things that you look at
11 is the impact on the community, this is the
12 community and I would submit to you there's no
13 -- I mean it -- under his assertion every
14 document generated, every survey generated
15 would be hearsay, it's not.

16 **MR. MONTGOMERY:** Your Honor, I'd suggest too, the
17 report is, in fact, hearsay and that's what the
18 document is, is a report.

19 **MR. HARPOOTLIAN:** Well, we're not introducing the --
20 -

21 **MR. MONTGOMERY:** It is not ---

22 **MR. HARPOOTLIAN:** I'm sorry. We're not introducing
23 the document, we're asking her to use the
24 document to refresh your memory of what the
25 University garnered or gathered from this --



1 this information, I'm not putting the report.
2 in, I'm putting in her testimony.

3 **MR. MONTGOMERY:** But Your Honor, her testimony is
4 based solely on the report.

5 **THE COURT:** Well, I ---

6 **MR. MONTGOMERY:** She'd be able to gather this
7 information and she didn't put it in this
8 format, the only way it's in this format and
9 this information is because of a third party
10 prepare a report and we ought to have the
11 opportunity if that third party information is
12 going to be presented to -- to cross-examine
13 the third party.

14 **THE COURT:** I'm -- I'm going to allow in with the
15 business exceptions.

16 **MR. HARPOOTLIAN:** And -- and Your Honor, further
17 under rule 1006 summary should prove content I
18 believe it'd be admissible rules of evidence,
19 rule 1006 which one of my handy dandy
20 assistants here just brought up the new method
21 I would have known that. So, thank you.

22 **Q:** Okay. So let's get to the -- let's get to the
23 meat of the matter. So how many of the
24 students reported drinking in a high risk way?

25 **MR. MONTGOMERY:** Your Honor, I'm going to object



1 again. Define drinking in a high risk way,
2 that is an expression of opinion.

3 **MR. HARPOOTLIAN:** Okay. Well, let me ---

4 **MR. MONTGOMERY:** That's exactly what an expert
5 witness does and we don't have an expert
6 witness named and so it's a conclusion. This
7 is all an effort to circumvent the rules and
8 get information in -- that's otherwise in this
9 ---

10 **MR. HARPOOTLIAN:** Let me -- let me rephrase the
11 question.

12 Q: Tell me what drinking in a high risk way means.

13 A: We define that as either heavy episodic drinker
14 or problematic drinker so for men that's four,
15 five or more drinks in one sitting plus eight
16 to nine drinks in one sitting which is defined
17 a two hour setting and for women it's four or
18 more or six or more.

19 Q: And so this report would say 25 percent ---

20 **MR. MONTGOMERY:** Your Honor ---

21 **MR. HARPOOTLIAN:** Just wait a minute.

22 **THE COURT:** Wait. Whoa, whoa, whoa. Now, you can't
23 tell him when to object.

24 **MR. HARPOOTLIAN:** Well, it's, but it's not -- it's a
25 continuing objection, I'm trying to show the



1 foundation. Your Honor, there's no jury here,
2 you can just say I'm not going to consider any
3 of that? I'm just trying to develop it so you
4 understand she's defining, you didn't know what
5 high, drinking in a high risk was how did 25
6 percent apparently say they apparently they're
7 self reporting, right?

8 A: Yes. All of ---

9 Q: They report, they meet that criteria, 25
10 percent of 5,433, is that right?

11 A: Yes.

12 **MR. MONTGOMERY:** Your Honor, I mean I think A, the
13 question was phrased in a manner which and I
14 understand we're a non-jury matter and I
15 understand the court can consider things for
16 what the court desires so I'm going to raise my
17 continuing objection to this, if the court will
18 accept it and avoid me jumping up and down with
19 every question.

20 **THE COURT:** Let's do that and you can be assured
21 that I understand that the -- her definition of
22 high risk and all of that is somewhat
23 problematic in this context so I will look at
24 this for the purpose of the -- the data that's
25 in there which it's my understanding why Mr.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Harpootlian wants to get it in and -- and I
2 will disregard any opinions or pejorative type
3 characterizations of the data.

4 **MR. MONTGOMERY:** Thank you, Your Honor.

5 **MS. SHIELDS:** Your Honor, at this time, now that
6 I've had a chance to review this document, I
7 would just -- I would object to it being
8 irrelevant, Your Honor. I don't see anywhere
9 in here -- we're here today regarding the
10 applications for the beer and wine permit and
11 the restaurant liquor by the drink license
12 these applicants -- this survey is not
13 conductive regarding those applications. This
14 seems to be a broader survey for not even the
15 Five Points area so I ---

16 **MR. HARPOOTLIAN:** Well, I can -- I can -- let me
17 focus. I'm -- I'm just trying to get there,
18 but I can get to the Five Points area.

19 **THE COURT:** So is there data in here that deals
20 strictly with the Five Points. ---

21 **MR. HARPOOTLIAN:** Well, she has data, I'm not sure
22 it's in, is it in this report about Five
23 Points?

24 **A:** No. The data we have in this survey is where
25 students drink, where they're most likely to



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 drink.

2 **THE COURT:** Where they're most likely to ---

3 **MR. HARPOOTLIAN:** A specific place or an area, or?

4 A: Areas, bars and nightclubs.

5 **MR. HARPOOTLIAN:** Okay. So bars and nightclubs and
6 that's all I have out of this report. Okay.

7 **MS. SHIELDS:** Bars and nightclubs would be the
8 Vista.

9 **MR. HARPOOTLIAN:** Well, we're going to focus --
10 we're going to focus with supplemental
11 information she has. Let me ask the question.

12 Q: How many kids at USC were taken to the
13 emergency room or had to have medical
14 attention for over -- over drinking.

15 **MR. MONTGOMERY:** Your Honor, again I'm going to
16 object on both the relevance again. I don't
17 know that she's the custodian of records that
18 has the ability to carry this information out,
19 there's been no foundation laid.

20 **MR. HARPOOTLIAN:** Are you the custodian of records
21 to carry this information, do you ---

22 **THE COURT:** Yeah. She had ---

23 **MR. HARPOOTLIAN:** --- where'd you get your ---

24 **THE COURT:** --- she had already testified that she's
25 the one that oversaw the compilation of this.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 MR. HARPOOTLIAN: Right, right. Okay. So ---

2 THE COURT: Hold on just a minute, let me -- let me
3 rule on their objections before you continue.

4 MR. HARPOOTLIAN: You know Your Honor, I'll withdraw
5 any questions about this survey, okay?

6 THE COURT: Okay.

7 MR. HARPOOTLIAN: There's other data I think that
8 she can get into.

9 Q: Do you have any data on how many students at
10 USC were taken to medic -- taken, given medical
11 care last year for alcohol related problems?

12 A: Yes.

13 Q: How many?

14 A: We have 254 students who were transported for
15 alcohol ---

16 Q: 2 ---

17 A: --- related illnesses.

18 Q: --- transported to a medical facility?

19 A: Right.

20 Q: Okay. Were they interviewed?

21 A: Yes.

22 Q: And did any of them indicate where they had
23 over imbibed?

24 A: Yes.

25 Q: What percentage ---



1 MR. MONTGOMERY: Your Honor ---

2 MR. HARPOOTLIAN: Wait a second.

3 Q: --- what percentage ---

4 THE COURT: Whoa, whoa.

5 MR. HARPOOTLIAN: There's no jury here, Your Honor.

6 I can get -

7 THE COURT: I know, but he -- but that's the point -

8 --

9 MR. HARPOOTLIAN: I have to make the record
10 nonetheless.

11 THE COURT: --- if he's going to make an objection -

12 --

13 MR. HARPOOTLIAN: Okay.

14 THE COURT: --- then you need to give me an
15 opportunity ---

16 MR. HARPOOTLIAN: I -- I apologize.

17 THE COURT: --- to hear his objection and rule on
18 it.

19 MR. HARPOOTLIAN: I'm just trying to get you the
20 information you need and ---

21 THE COURT: I know, and you're in a hurry to get out
22 of here -

23 MR. HARPOOTLIAN: Okay.

24 THE COURT: --- and I understand that, but we have
25 to -- let's play by the rules.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 **MR. HARPOOTLIAN:** Yes, ma'am. I'm just saying I
2 want to get the information she needs not
3 extraneous irrelevant information.

4 **MR. MONTGOMERY:** Your Honor, again, there's no
5 foundation laid for this and again there's a
6 question of relevance. They that the -- you
7 know, how many were from their dorms, how many
8 were from all of these other places if this
9 information ---

10 **THE COURT:** Well ---

11 **MR. MONTGOMERY:** --- comes out and the most
12 important questions how many ---

13 **THE COURT:** I think that's something for you ---

14 **MR. MONTGOMERY:** --- were from Five Points Roost?

15 **THE COURT:** --- I think that's something for you to
16 deal with on cross-examination.

17 **MR. HARPOOTLIAN:** Thank you.

18 **THE COURT:** Mr. Montgomery, let's continue with the
19 -- we'll allow the witness to testify and then
20 if those are problems with her testimony you
21 can point that on cross-examination.

22 **MR. HARPOOTLIAN:** Thank you, Your Honor.

23 **Q:** So you know how many went to the hospital?

24 **A:** Uh-huh.

25 **Q:** This is a program you supervised in terms of



1 interviewing these -- these ---

2 A: Uh-huh.

3 Q: --- kids? You know how many of them -- they
4 were all interviewed about where they had over
5 imbibed?

6 A: Uh-huh.

7 Q: You have to say yes or no.

8 A: Yes.

9 Q: And what was the result of those, of that --
10 was that done under your supervision?

11 A: Not my direct supervision, but my staff
12 members.

13 Q: Your staff members did it. Okay.

14 A: Uh-huh.

15 Q: And what -- of those 200 and ---

16 A: 54.

17 Q: --- how many of them indicated that they had
18 over imbibed at a bar in Five Points?

19 A: 40 percent.

20 Q: 40 percent of the kids that had to go to the
21 hospital last year, was it 2017?

22 A: Uh-huh. Yes, sorry.

23 Q: 2017, over imbibed in Five Points at a bar?

24 A: 40 percent.

25 Q: 40 percent. How many of those were over or



1 under the age of 21?

2 A: I do not know the accurate number of that, but
3 most were under 21.

4 Q: Okay. Now -- I beg the court's indulgence for
5 a moment. Well, let me -- let me ask this, the
6 University of South Carolina officially has
7 objected to the Rooftop bar that they've filed
8 a protest, correct?

9 A: Correct.

10 Q: And while -- I mean I guess that the reason you
11 didn't file one on the Roost was?

12 A: I don't think we made it in time.

13 Q: Okay. Would you have objected to the Roost?

14 A: Yes.

15 **MR. MONTGOMERY:** Your Honor, calls for speculation,
16 would you have.

17 Q: If you could have made it on time, would you
18 have objected, would you file an objection?

19 A: Yes.

20 Q: So the University of South Carolina is -- and
21 you're their spokesman here today opposed to
22 both the Roof and Roost -- Rooftop and the
23 Roost?

24 A: Yes. The only one we documented was the
25 Rooftop.



1 Q: Right. Because of time constraints?

2 A: Right.

3 Q: Okay. Beg the Court's indulgence. That's all
4 I have, Your Honor.

5 THE COURT: All right. Mr. Montgomery.

6 **MS. EDWARDS - CROSS-EXAMINATION BY MR. MONTGOMERY:**

7 Q: May it please the court. Ms. Edwards, you
8 actually administer a number of programs at
9 USC, don't you?

10 A: Yes.

11 Q: You, in fact, are responsible for athletics,
12 aren't you?

13 A: Athletic ticketing for students.

14 Q: Okay. And you had a substantial issue with
15 alcohol and tailgating, didn't you?

16 A: Yes.

17 Q: And did the University stop football games
18 because you had problem with alcohol and
19 tailgating?

20 A: No, sir.

21 Q: And you also, in doing you survey here that
22 you've testified about it's of all students 23
23 and under, is that correct?

24 A: Yes.

25 Q: So you don't have any data directly that shows



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 what the ages are of the students responding to
2 survey, do you?

3 A: Not provided in this report.

4 Q: Okay. And you handle campus recreation, right?

5 A: Yes, sir.

6 Q: Fraternity and sorority life?

7 A: Yes, sir.

8 Q: You have alcohol issues with Greek Life at the
9 University?

10 A: We do.

11 Q: And isn't it true that you have problems in the
12 dormitories, don't you?

13 A: Yes.

14 Q: In fact, isn't it true that in your data that
15 almost 40 percent depending on the year of the
16 calls you have related to hospitalization are
17 things that occur on-campus.

18 A: I'm not aware of that number.

19 Q: Okay. A substantial number occurs on-campus
20 though, doesn't it?

21 A: Yes, sir.

22 Q: And let me ask you this: Isn't it true that
23 often times when these students are referred
24 they're subject to discipline at the
25 University?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 A: Yes, sir.

2 Q: And they're to -- to punishment for these
3 actions or counseling or other things, right?

4 A: We call them educational sanctions.

5 Q: And somebody else might call them punishment,
6 right?

7 A: Yeah.

8 Q: And so how do you verify the veracity of the
9 information that the student was transported
10 gives you about where they were drinking. Do
11 you have any action that you take to verify
12 that?

13 A: We take it -- we gather information from
14 transports, we ask staff members who go to the
15 hospital to meet with those students and then
16 we have the follow-up conversation with them
17 through an, motivational interviewing program.

18 Q: Okay. And that's HIPAA Information for the
19 students, isn't it?

20 A: It is.

21 Q: What kind of sanctions do these students take
22 from the University?

23 A: From the 254 who were transported?

24 Q: Yes, ma'am.

25 A: They are sanctioned to participate in a program



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 called STIR which is a three session
2 motivational interviewing program that is
3 evidence based to create behavior change in
4 individuals, they meet with trained social work
5 staff to go through conversations around
6 decision making and healthy decision making.

7 Q: Now, isn't it important that people that
8 operated businesses that serve alcohol take
9 safeguards in order to try to help you with
10 your program?

11 A: Absolutely.

12 Q: Now, did you have the opportunity, were you
13 invited to attend the open house that Mr.
14 Ruonala and Mr. Bland had?

15 A: I was not directly invited, but a staff member
16 of mine was invited and attended.

17 Q: And did that staff member make any kind of
18 report to you?

19 A: Yes.

20 Q: And what was the nature of that report?

21 A: That there was ---

22 **MR. HARPOOTLIAN:** Objection, hearsay.

23 Q: Did that staff member make a report to you in
24 the course of your normal business practices?

25 A: She did.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 **MR. HARPOOTLIAN:** I withdraw the objection.

2 **Q:** And what did you learn from the report the
3 staff member did?

4 **A:** I learned that she met the two owners of the
5 bars and that she was greeted by other
6 neighborhood members and that was about it.

7 **Q:** So did you learn anything about the practices
8 and policies these establishments were
9 employing?

10 **A:** She spoke to having conversations with the
11 general managers about what they hoped to do to
12 be an advocate of change in the Five Points
13 area.

14 **Q:** And you'd say that's important, wouldn't you?

15 **A:** Absolutely.

16 **Q:** And wouldn't you say if you're going to be an
17 advocate of change you have to be in business
18 to do that, wouldn't you?

19 **A:** Yeah. But we've heard that before from other
20 bar owners and I work with the Carolina
21 Community Coalition as we've tried to engage
22 bar owners, neighborhoods and local business
23 owners in creating change in that area.

24 **Q:** Has any of them acquired and started using ID
25 Scan that you're aware of?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 A: I'm not aware of that.

2 Q: Okay. How many of them are using black lights
3 to scan for fake ID's?

4 A: I don't know.

5 Q: How many of them are turning away patrons when
6 the aren't presenting proper ID?

7 A: Based on what I hear from students, not many.

8 Q: How many of them are, in fact, not serving
9 discount beverages?

10 A: Not many.

11 Q: Okay. And in fact the University maintains and
12 monitors social media to see what's going on
13 with that, don't they?

14 A: Yes.

15 Q: Now, since they've been opened as Five Points
16 Roost has your monitoring of that social media
17 in any way reveal that they've been offering
18 discounts or -- or low price beverages?

19 A: We've not monitored this spring.

20 Q: You've not monitored, why not?

21 A: Because it was connected to a study last spring
22 so we did it last fall of '16 and spring of
23 2017.

24 Q: Okay. But -- so you didn't monitor this
25 spring?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 A: No.

2 Q: What other practices and I see you -- you
3 actually traveled for Kappa Kappa Gamma
4 Sorority as a field rep?

5 A: Right.

6 Q: What practices in that job would you have
7 encouraged to work to make sure that you limit
8 underage drinking in that you serve safely so
9 that people can have a drink if they legally
10 want to, but don't get in trouble?

11 A: Uh-huh.

12 Q: What are those practices?

13 A: So for individuals a lot of it is the education
14 around understanding the risk associated with
15 drinking underage, the consequences associated
16 with that both the intended and unintended.
17 There's also the risk associated or some of the
18 practices regarding the environment all
19 strategies so those such as policies, city
20 zoning ordinances, laws that can impact the
21 decision or a community in the ability of
22 individuals to make healthy and responsible
23 decisions within that community.

24 Q: Would you agree with me that taking extra steps
25 to keep people under 21 out of your



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 establishment is one way to help cut underage
2 drinking?

3 A: Absolutely.

4 Q: Would you agree with me that not having
5 discount pricing or special pricing on
6 alcoholic beverages is another way to do that?

7 A: Yes. I think that's actually against the law.

8 **MR. HARPOOTLIAN:** If she didn't qualify as an
9 expert, Your Honor, I object to him asking her
10 opinions on things, if she couldn't give her
11 opinion about the report so what's good for the
12 goose is good for the gander, objection.

13 **THE COURT:** Okay. Let's stay away from ---

14 **MR. MONTGOMERY:** Thank you, Your Honor. Yeah too.

15 **THE COURT:** --- questions for her, asking for her
16 opinion.

17 Q: You traveled I believe to more than 30 college
18 campuses while you worked with Kappa Kappa
19 Gamma and what did you observe about alcohol
20 issues on college campuses?

21 A: That was back in 2001 so obviously observed
22 that alcohol is very prevalent in the college
23 community and there's great work being done on
24 a variety of levels to combat that to enforce
25 laws, policies and to hold students accountable



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 when hey break said laws and policies.

2 Q: Okay. What does the University do with regard
3 to the establishments on campus that actually
4 serve alcoholic beverages?

5 A: I'm not aware of -- I'm not a part of that
6 process, I don't -- I don't know what the
7 policy is.

8 Q: So are you aware that the University actually
9 has outlets on campus that serve alcoholic
10 beverages?

11 A: I know that our alcohol policy allows for
12 alcohol to be served through a third party
13 vendor for events or other activities that
14 occur on campus.

15 Q: And that would -- would your third party vendor
16 be Aero-mark?

17 A: Yes.

18 Q: And do you know if Aero-mark has actual
19 licenses to serve alcoholic beverages in
20 locations on campus?

21 A: Yes.

22 Q: Okay. And what safeguards that you're aware of
23 does the University employ at those locations
24 to limit underage drinking and to limit over
25 consumption?



- 1 A: So when a, an entity or a University Department
2 or Office wants to have an event with alcohol
3 they go through a process where we meet with
4 them to review the alcohol policy, we go
5 through and event registration for one how we
6 look at how individuals will be carded or
7 identified, 21 year of age and younger and up,
8 how much alcohol is being served based on the
9 hours of the event, what food is provided, what
10 non-alcoholic beverages are provided, security
11 that is needed, whether it's an indoor event or
12 outdoor event so all of those factors play into
13 event registration at the University.
- 14 Q: Okay. And you would consider those practices
15 that the University would prefer to take place,
16 right?
- 17 A: Yes.
- 18 Q: Okay. Now, one other thing I was going to ask
19 you and you talked about the protest of the
20 University, what authority do you have from the
21 Board of Trustees to act on behalf of the
22 University to file a protest?
- 23 A: Well, I am an agent of the -- the University
24 and I've been the one that's designated to --
25 to be the spokesperson for this today.

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: So you've been designated spokesperson today,
2 you didn't actually file a protest, did you?

3 A: Correct.

4 Q: Okay. And do you know what authority anyone at
5 the University has to file a protest?

6 A: I think based on the agents of our job and what
7 we're responsible for knowing what's best for
8 the University and the board was aware of what
9 we were doing.

10 Q: Okay. Do you know if the board passed a
11 resolution authorizing the University to
12 protest this?

13 A: I'm not aware of that.

14 Q: Okay. I don't have any further questions.
15 Thank you, ma'am.

16 **MS. SHIELDS:** Briefly, Your Honor.

17 **MS. EDWARDS - CROSS-EXAMINATION BY MS. SHIELDS:**

18 Q: So I think what you were attempting or you were
19 brought here to discuss today was the impact of
20 alcohol consumption on your student, correct?

21 A: Correct.

22 Q: Okay. Do you have any data directly related to
23 your students consumption of alcohol given to
24 them from Five Points Roost?

25 A: No.



1 Q: Okay. No other questions.

2 MR. HARPOOTLIAN: No questions, Your Honor. May the
3 witness be excused?

4 MR. MONTGOMERY: I have no objection, Your Honor.

5 THE COURT: No objection from anyone yes, please.

6 MR. HARPOOTLIAN: Thank you. 1:00 o'clock tomorrow,
7 Your Honor?

8 THE COURT: 1:00 o'clock tomorrow.

9 MR. HARPOOTLIAN: Thank you.

10 MR. MONTGOMERY: Thank you, Your Honor.

11 MS. SHIELDS: Thank you, Your Honor.

12 THE COURT: That concludes this for today.

13 (DAY ONE The hearing adjourned Monday, February 20,
14 2018, at 5:20 p.m.)

15 (DAY TWO The hearing reconvened Wednesday, February
16 21, 2018, at 1:01 p.m.)

17 THE COURT: So then we got another witness then, Mr.
18 Harpootlian?

19 MR. HARPOOTLIAN: We do and let me make sure I get
20 this name, Leslie Wiser.

21 THE COURT: Mr. Wiser, if you'll come up the court
22 reporter will swear you in.

23 LESLIE WISER, having been duly sworn,
24 testifies as follows:

25 MR. WISER - DIRECT EXAMINATION BY MR. HARPOOTLIAN:



1 Q: Mr. Wiser, how about tell me two things, where
2 do you -- where are you currently employed?

3 A: I'm -- I'm employed as a member of the faculty
4 of the University of South Carolina.

5 Q: And what do you do for them?

6 A: I teach in the -- I'm an instructor in the
7 Department of Criminology and Criminal Justice.

8 Q: Okay. And where have you -- well, let's go
9 through your work history. You, where'd you go
10 to college?

11 A: I went to college at Allegheny College in
12 Greenville, Pennsylvania. Graduated in 1975
13 with a degree in criminal, Political Science.

14 Q: Political Science, what'd you do after that?

15 A: I went to the University of Pittsburgh School
16 of Law and I graduated from there in 1979 and
17 was admitted to the Pennsylvania Bar
18 thereafter.

19 Q: What'd you do after that?

20 A: I joined the Navy's JAG Corp and prosecuted and
21 defended cases at Court's Marshall and served
22 aboard the USS Fulton in Submarine Squadron 10n
23 as an -- an attorney for them.

24 Q: Okay. And how long were you in the Navy?

25 A: From 1979 to right at 1983 on active duty.



1 Q: And what did you do after that?

2 A: I joined the FBI, entered, I entered on duty
3 with the FBI as a Special Agent in December of
4 1983.

5 Q: You went to Quantico?

6 A: I went and graduated from the FBI Academy in
7 Quantico where I was number one in my class for
8 academic excellence.

9 Q: Okay. What'd you do after that?

10 A: I was a Special Agent and served in a number of
11 capacities and I retired from the FBI in 2007
12 as a Special Agent in charge of the Newark
13 division of the FBI.

14 Q: Okay. Let me -- let me stop you a little bit.
15 While you were at the FBI what was your primary
16 responsibility?

17 A: I was a -- I was a Special Agent, I was an
18 Investigator assigned a myriad of duties, I --
19 in Minneapolis I worked as a First Office
20 Agent, a number of different violations. When
21 I went to Washington, D.C. in my second office
22 I specialized in counterintelligence.

23 Q: Counterintelligence and what is
24 counterintelligence?

25 A: It's detecting and forwarding the foreign



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 intelligence operations of foreign powers and
2 involves also, it can involved espionage and I
3 worked espionage cases after a time.

4 Q: Okay. Now, during that period of time,
5 interestingly enough sounds to me like deja vu
6 all over again, you worked cases about the
7 Russians?

8 A: Yes, I did, sir.

9 Q: All right. Seems to be timeless, Russians
10 case. So when you were involved in counter-
11 espionage involving the Russians, did you work
12 on any cases that I might be familiar with
13 being a aficionado of spy thrillers, novels
14 and factual books.

15 A: Yes. I would say supervisor and lead
16 investigator for the investigation of Aldrich
17 Ames.

18 Q: Aldrich Ames a FBI Agent who turned out to ---

19 A: No, sir, CIA Officer.

20 Q: I'm sorry. CIA Officer turned out to be a
21 double agent after being paid and working for
22 the Russians.

23 A: He worked for the Russians, yes, sir.

24 Q: And he exposed a number of American agents
25 working overseas?



- 1 A: Yes, sir.
- 2 Q: And what happened to those -- those agents?
- 3 A: Many of them were executed.
- 4 Q: By the Russian government?
- 5 A: By the Russian Government. Yes, sir.
- 6 Q: And then you worked on that case, was he
- 7 convicted?
- 8 A: Yes, sir. He was convicted.
- 9 Q: And was he given a sentence?
- 10 A: He was sentenced to the maximum sentence then
- 11 available under the law which was life with
- 12 possibility of parole.
- 13 Q: And he's still in prison?
- 14 A: Yes, sir.
- 15 Q: Okay. What about any other espionage cases you
- 16 might be familiar with?
- 17 A: You may be familiar with a case involving a
- 18 women in California named Katrina Leona, a book
- 19 was written on it called, I can't remember the
- 20 name of the book, but the book ---
- 21 Q: She was a Russian agent?
- 22 A: She was a -- a Chinese agent.
- 23 Q: Chinese agent?
- 24 A: Yes, sir.
- 25 Q: And you -- what was she doing?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 A: She was working as an asset for the FBI, but
2 then also working primarily for the Chinese
3 Intelligence Service.

4 Q: Somebody would actually work for two
5 governments at the same time?

6 A: Yes, sir.

7 Q: Amazing. And she was prosecuted?

8 A: Yes, sir.

9 Q: What did she receive?

10 A: She, I believe she pled guilty to -- to a
11 single charge, I can't, I'm sorry I just don't
12 remember.

13 Q: Some prison you say? Some prison, she went to
14 prison?

15 A: She did not go to prison.

16 Q: Okay. So she was working ---

17 A: They gave her time served, it was California.

18 Q: Okay. So -- and what about -- was there
19 someone with the FBI you investigated for
20 espionage?

21 A: I supervised an investigation which led to the
22 identification of Robert Hanson as ---

23 Q: Okay. Now ---

24 A: --- as a Russian Agent.

25 Q: Okay. Did you work with Robert Hanson?



1 A: Yes, sir, I did.

2 Q: Was he like somebody you saw every day?

3 A: Not every day, but I, he visited my office from
4 time to time.

5 Q: And he at that time was working for the
6 Russians while at the FBI?

7 A: Yes, sir.

8 Q: And he was uncovered and prosecuted?

9 A: Yes, sir.

10 Q: And what did he get?

11 A: I believe he got Lee in prison without the
12 possibility of parole if I'm not mistaken.

13 Q: Okay. So you worked for the FBI in -- in
14 uncovering sort of subtle things that indicates
15 somebody may not be entirely honest or perhaps
16 even treasonist, correct?

17 A: Yes, sir.

18 Q: Now, after you worked at the FBI what did you
19 do?

20 A: I worked for the New Jersey Devils a
21 professional hockey team where I was the
22 director of security for an affiliate company
23 called Devil's Arena Entertainment. I was the
24 director of security for the Prudential Center,
25 an entertainment venue and we worked in Newark,



1 New Jersey.

2 Q: Okay. And a number of different sports teams
3 played there, right?

4 A: It was the host for New Jersey Devils, but also
5 for Seton Hall Basketball Team the east
6 basketball team.

7 Q: Okay.

8 A: And -- and we did concerts as well.

9 Q: All right. How long did you do that?

10 A: About two years.

11 Q: And then what'd you do?

12 A: Then I was a consultant for an intelligence
13 community component.

14 Q: A consultant for an intelligence community
15 component?

16 A: Yes, sir. A government agency, I was a Senior
17 Advisor giving them advice on
18 counterintelligence matters.

19 Q: Okay. How long did you do that?

20 A: For a year.

21 Q: And then what'd you do?

22 A: I -- followed that after a short break for
23 about -- I was the Assistant Chief of Police
24 for the City of Columbia.

25 Q: And how long did you do that?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 A: About three or four years, from December of
2 2010 until August 2013.

3 Q: And you were the Assistant Chief?

4 A: Yes, sir. I was number two.

5 Q: Okay. And while you were the Assistant Chief
6 did you learn about or hear about any sort of
7 activity that the police department had to deal
8 with in the Five Points area?

9 **MR. MONTGOMERY:** I'm going to object to anything he
10 heard about.

11 Q: Let me -- let me put it to you this way, when
12 I say heard, did you see records that are kept
13 in the ordinary course of business at the
14 Columbia Police Department that would inform
15 you on the conduct or activities with the
16 police in the Five Points area?

17 A: Yes, sir. I saw regular reports, but I also
18 went on my own initiative and on orders of both
19 to stand with police officers, to work with
20 police officers in Five Points as I did in
21 other areas of the city in order to learn more
22 about the problems that individual officers
23 faced.

24 Q: And what were the problems individual officers
25 faced?



1 A: A number of problems, but if we're talking
2 about Five Points ---

3 Q: Right.

4 A: --- problems with intoxicated, particularly
5 intoxicated students, but also inexperienced
6 drinkers, underage drinkers.

7 Q: Was it epidemic?

8 A: It was widespread, epidemic seems maybe a term
9 of art, I don't know, but it was widespread.

10 Q: Widespread?

11 A: Yes, sir.

12 Q: And did you look at any specific drinking
13 establishment or you were looking at all of
14 them as a whole.

15 A: We looked at all of them as a whole, but I
16 think during that time we, together I think
17 with the solicitor's office and my memory may
18 fail me in this but we -- I think we closed
19 down the Library Bar as a nuisance at that time
20 and I may be incorrect on that.

21 Q: I think you're right. So -- and after -- so
22 you left there as Assistant Chief, where did
23 you go then?

24 A: I was employed as a full-time member of the
25 faculty of the University follow up South



1 Carolina.

2 Q: Okay. And is that' what you've done since
3 then?

4 A: Yes, sir.

5 Q: Okay. And what is your position? You're a
6 professor of?

7 A: My position is now an instructor and I teach
8 courses on Terrorism, Organized Crime, Violence
9 in America, Policing and Introduction to
10 Criminal Justice.

11 Q: Okay. I want to have this marked for
12 identification and that's introduced at this
13 time.

14 **(Intervenor's Exhibit Number 2 was marked for**
15 **identification purposes.)**

16 Q: So tell me what I've marked, what's the title
17 of what I've marked?

18 A: Time For Change.

19 Q: Okay. And what is that, generically?

20 A: Time For Change is -- is an evidenced based
21 report and study that I in conjunction with
22 some others conducted for the Office of Student
23 Life.

24 Q: Okay. And what were you focusing on in the
25 Time For Change?



1 A: We were focusing on risky student behavior,
2 that behavior particularly with alcohol,
3 involving alcohol that affected their health
4 and safety.

5 Q: Okay. And were there surveys conducted that,
6 first of all were there surveys conducted?

7 A: There were surveys conducted as part of the
8 study and there were surveys conducted that led
9 to this study.

10 Q: Okay. The surveys that were conducted that led
11 to the study, who were they conducted by?

12 A: They were conducted by the Office of Student
13 Life through their contractor EVERFI.

14 Q: Okay.

15 A: Called Alcohol EDU.

16 Q: Are you familiar with EVERFI?

17 A: I've attended at least one seminar and talked
18 with representatives of EVERFI as they brought
19 their data forward.

20 Q: And have you dealt with that at either the FBI
21 or another capacity, are you in a position to
22 judge the -- do you have some background that
23 would let you judge whether that data was
24 something you could rely on?

25 A: Yes, sir.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: And ---

2 **MR. MONTGOMERY:** Your Honor, enter an objection at
3 this time. We're getting back into the survey
4 evidence issue, the witness has just opined on
5 the quality of the evidence in the survey which
6 obviously is -- is -- he's being proffered to
7 tender an expert opinion. I'm going to call
8 the Court's attention to the case of Dick's
9 Sporting Goods, Inc. Versus Dick's Clothing and
10 Sporting Goods, Inc., which is a Fourth Circuit
11 case. It's 1999 U.S. Appeals Lexus 19.9.42 is
12 the cite I can give you, it's number 98.16.53.
13 That case says survey evidence is admissible as
14 an exception to the hearsay rule only if the
15 survey is material or probative on the issue
16 than the evidence and it has guarantees of
17 trustworthiness. Okay. And there is a string
18 cite of a bunch of questions, but there's
19 nothing here, there's no foundation laid and
20 the mere opinion of the witness on the survey
21 does not afford it any of that credibility,
22 with all due respect to the witness, he's a
23 fine guy, but that doesn't make him an expert
24 on survey methods and it doesn't give him the
25 ability to come into this court and opine as to



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 the validity of any data gathered by somebody
2 else.

3 **THE COURT:** Okay.

4 **MR. HARPOOTLIAN:** If -- if it would please the
5 court, Your Honor. Rule 25(a) Court -- the
6 Administrative Law Court Rule 25(a) in Section
7 123.330 if we -- in a pre-trial conference we
8 would have dealt with these issues, but there's
9 no pre-trial conference in this case, Mr.
10 Montgomery didn't request one. So since there
11 wasn't one, under Rule 28 of the Administrative
12 Law Court's Rules and Procedure one wasn't
13 conducted. Then you go to 702 of the Rules of
14 Evidence which, let me make sure I've got it
15 here ---.

16 **MR. MONTGOMERY:** It's marked by the yellow tab.

17 **MR. HARPOOTLIAN:** That would be would be the yellow
18 tab at the top? Okay. Here you go. It says
19 -- okay. If the -- if the witness is not
20 testifying as an expert, the witnesses
21 testimony in the form of opinions or inferences
22 is limited, those opinions or inferences which
23 are rationally based on the perception of the
24 witness. B, are helpful to clear understanding
25 the witnesses testimony for the determination



1 of fact and issue and do not require a special
2 knowledge or skill. If he's an expert, a
3 witness is qualified an expert by knowledge,
4 skill or experience. Now, first of all I don't
5 know why I can't make a motion that will
6 qualify him as an expert. Under what
7 particular rule would prohibit that? I don't
8 understand why I can't make a motion today to
9 qualify him as an expert.

10 **THE COURT:** Well, you could, but ---

11 **MR. HARPOOTLIAN:** Well, I'm ---

12 **THE COURT:** --- you just haven't.

13 **MR. HARPOOTLIAN:** I'm going to, this moment. Okay?

14 Your Honor, there's -- and -- and let me -- the
15 -- the applicant made a motion for an expedited
16 hearing. If you remember, I wanted to have a
17 production made by a party, normally you'll
18 have 30 days, they objected to that. Okay. So
19 we can't go through the normal dance one goes
20 through in a civil case where I name an expert,
21 they've got 30 days to respond with their
22 expert, then we take their depositions and then
23 at that point there's a Daubert hearing, or
24 whatever. We're not -- this is a much more
25 expedited and abbreviated process so I've had



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 no opportunity -- there was no requirement to
2 name any experts let alone a -- a ---

3 **THE COURT:** Yeah, you can ---

4 **MR. HARPOOTLIAN:** --- expert witness.

5 **THE COURT:** --- you can still have him qualified as
6 an expert without having done all of that and
7 ---

8 **MR. HARPOOTLIAN:** Okay. Well, let me go ahead and
9 do that then. Thank you.

10 **MR. MONTGOMERY:** Your Honor, I want to noted
11 something for the record yesterday prior to
12 this hearing commencing I'd made a motion to
13 eliminate on this -- on this very issue.
14 During that hearing Mr. Harpootlian represented
15 to me and the Court that he was not going to
16 seek to qualify anyone as an expert and was not
17 going to present expert testimony.

18 **MR. HARPOOTLIAN:** Well, Your Honor ---

19 **THE COURT:** You're right.

20 **MR. HARPOOTLIAN:** --- I apologize, Your Honor, or --
21 or Mr. Montgomery, after the -- the testimony
22 of the young lady from the University I changed
23 my mind, and I don't know why in any way that
24 would prejudice ---

25 **THE COURT:** Well, Mr. Montgomery has made a motion



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 in limine and -- but as I explained when we --
2 when I was hearing that motion, any ruling that
3 I would have made on the motion in limine was
4 -- would have been preliminary in nature anyway
5 and we would have had to have revisited all of
6 this during the hearing. So I don't really
7 think that you are prejudiced by the fact that
8 I didn't rule on it decisively in the motion in
9 limine. I educated myself with your memorandum
10 and I will pull it back out now and look at it
11 again while we're talking.

12 **MR. MONTGOMERY:** Thank you, Your Honor.

13 **THE COURT:** Okay. I know you cited some law in
14 there.

15 **MR. MONTGOMERY:** Well, Your Honor I'd note for the
16 record also that the purpose of my motion of
17 limine at the time is I informed the court that
18 there was going to be expert testimony allowed
19 I wanted to opportunity to depose any proposed
20 experts and to have the opportunity to present
21 my own if that was going to be the case and I
22 also pointed out to the court that the
23 Administrative Law Court Rules one of the
24 issues relating to intervention is that the
25 intervention is not designed to unduly delay or



1 postpone the process and that's exactly what's
2 happening here..

3 **MR. HARPOOTLIAN:** Your Honor, he never served any
4 discovery on it, he never noticed any
5 depositions, he never, until yesterday morning,
6 mentioned the word expert witness and so now an
7 unduly delay I will proffer this witness as an
8 expert, I would suggest that -- that his
9 opportunity -- I mean again he moved for the
10 expedited hearing, if we'd taken nine months to
11 do this we could have done everything, the
12 bells, the whistles, the rules of civil
13 procedure, but this is an abbreviated period,
14 he opposed me getting a motion, I needed a
15 motion of production from a party, the DOR and
16 he opposed it because I didn't, I could do it,
17 it takes, requires 30 days so he can't have it
18 both ways, he can say oh yeah, I would have
19 done this and this under the normal procedures
20 if he'd found out yesterday that he was an
21 expert, he would have -- he either has to
22 decide expedited or not expedited. Now, if he
23 wants to go ahead and have you issued an order
24 allowing this -- this business to go forward
25 based on the expeditious way we're going to



1 handle this. If he wants to go ahead and let
2 them shut down while he takes three months to
3 hear, to go find an expert or two months or 30
4 days, I don't have an opposition to that. The
5 opinions this guy is going to offer are based
6 on data and this is idea that somehow, you
7 know, that this guy who is participated in some
8 of the most important espionage cases in the
9 history of the country and worked for testimony
10 FBI and has a statistical background can't give
11 those opinions it's just a delay mechanism. At
12 the minimum I would ask you to let me make a
13 proffer and I'll be more than happy to let him
14 do voir dire on him to challenge his
15 credentials and we put his -- put his testimony
16 up as a -- as a proffer that you can rule on
17 later.

18 **THE COURT:** Okay.

19 **MR. HARPOOTLIAN:** And that way it's in the record
20 and then you can make it not the decision
21 today, but we can go ahead and get this done
22 and you can -- you can use his information when
23 -- up to Your Honor -- and I think that you're
24 the finder of fact, you could totally disregard
25 them if you wanted to.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 **THE COURT:** Well, I think that's a good suggestion.

2 Let's hear the proffer of the evidence. I may
3 or may not rule on whether he's admissible as
4 an expert today, I may take time to look back
5 over the case law, but I may end up ruling at
6 the end of -- so you go ahead.

7 **MR. HARPOOTLIAN:** Okay. Thank you.

8 **THE COURT:** And then --

9 **MR. MONTGOMERY:** And, Your Honor ---

10 **THE COURT:** --- I'll hear from you ---

11 **MR. MONTGOMERY:** --- before he is qualified I do
12 want the opportunity to voir dire him.

13 **MR. HARPOOTLIAN:** And ---

14 **THE COURT:** And I -- yes ---

15 **MR. MONTGOMERY:** Okay.

16 **THE COURT:** --- you will have that opportunity and I
17 will hear from you again, Mr. Montgomery,
18 before I rule.

19 **MR. MONTGOMERY:** Thank you, Your Honor.

20 **Q:** All right. Now, you are currently teaching --
21 you have a law degree, correct?

22 **A:** Yes, sir.

23 **Q:** You're teaching at the University of South
24 Carolina?

25 **A:** Yes, sir.



1 Q: And how was it you came to be the person that
2 co-authored this October 1st, 2015 study for
3 USC?

4 A: As the Assistant Chief of Police and while I
5 was an adjunct professor at the University I
6 attended Carolina Coalition, Carolina Community
7 Coalition meeting at which a presentation was
8 made about Alcohol EDU Data and I was intrigued
9 by it. Later I became the Chairman of the
10 Carolina Community Coalition which is a group
11 that seeks to address risky student behavior in
12 the context of the relationship with the
13 community and to engage members of the
14 community to try to make sure that there's a --
15 a good downtown partnership, but I saw
16 additional Alcohol EDU data which concerned me
17 and it's -- and that's data that's contained in
18 this report. I made a proposal to the Office
19 of Student Life that -- that a study be
20 conducted to try to understand this effect of
21 alcohol on these students in the context of
22 immediately area of the hospitality districts
23 in which these students went and it's affect on
24 the community. We tried to do -- they accepted
25 the proposal and provided a grant so I could



1 pay for the expenses of hiring graduate
2 assistants and also to pay for my time to
3 perform this study.

4 Q: And this study was developed under your
5 supervision?

6 A: Yes, I was the principal investigator.

7 Q: Okay. Now, has anybody who is a investigator
8 with academic credentials you have to rely on
9 data, right?

10 A: That's correct.

11 Q: And the data in this case was generated by who?

12 A: Some of it was generated by Alcohol EDU, some
13 of it was generated by the City of Columbia
14 Police Department crime numbers, some of it was
15 generated by graduate students doing their own
16 investigation through interviews and also
17 through observations in the hospitality
18 districts that we looked at, that being Five
19 Points and the Vista.

20 Q: Now, are you trained in the methods of
21 developing scientific model so that your sure
22 you statistical data is accurate?

23 A: The graduate students are because they are PHD
24 candidates ---

25 Q: And ---



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 A: --- that's what their job is.

2 Q: Statistics?

3 A: Yes.

4 Q: Okay. Now, the ones that interviewed students
5 was that -- was that translated into a
6 statistic or was that maintained as ---

7 A: There were -- some of it was translated into
8 statistics.

9 Q: And who did that?

10 A: The graduate students.

11 Q: Who are PHD candidates ---

12 A: Yes.

13 Q: --- with a statistical background?

14 A: Yes, sir.

15 Q: And was there any sort of validation or
16 checking behind them to determine whether or
17 not the data all appeared to be accurate?

18 A: Well, we compared that data with our
19 observations and also the qualitative
20 interviews that were done of state holders so
21 I could just state in other participated
22 interviews with various state holders such as
23 the University of South Carolina Chief of
24 Police Chris Wuchenich who I talked with on
25 numerous occasions and have a relationship



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 with. Chief Holbrook and community leaders,
2 people that live in neighborhoods, liquor
3 distributors, I think we did some bar owners,
4 a number of people and we compared the data to
5 their observations.

6 Q: And was it -- did you validate to that?

7 A: Yes, sir.

8 Q: And this -- this process that you -- you
9 participated in on the type of change, have you
10 done other studies like this or participated or
11 read or been involved in other studies?

12 A: I read extensively in order to make myself a
13 better teacher.

14 Q: Okay. And those -- the techniques you've
15 learned you used in this study?

16 A: Yes. And this study is also contains a survey
17 of -- of the literature evidence base studies
18 done by other people as well.

19 Q: Okay. So and is this the -- you're an
20 academic, is this the normal, usual, routine or
21 process that's used in people in your field to
22 generate a study such as this?

23 A: Yes, sir.

24 Q: And -- let me check one thing here. And with
25 the specialized knowledge you have assist or be



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 required to generate this kind of report, the
2 specialized knowledge you -- you have gained in
3 terms of your ---

4 A: Yes, sir.

5 Q: --- your ---

6 A: I -- I basically, first of all I put it all
7 together, but the policy aspects of it were
8 what I felt I'm most qualified to discuss.

9 Q: And -- and those are based on that data?

10 A: Based on the data and my experience.

11 Q: Okay. And your experience as an FBI Agent,
12 Assistant Chief all of these ---

13 A: In all of my -- in all of my experience
14 combined, yes, sir.

15 Q: Okay. And is this the kind of data that is
16 typically relied upon by experts in this field
17 that is the criminology field in forming
18 opinions or inferences upon the subject that
19 your testifying?

20 A: Yes, sir.

21 Q: Beg the Court's indulgence. How about
22 answering any question Mr. Montgomery might
23 have.

24 **MR. MONTGOMERY:** You might want to remember that the
25 Department's here as well.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 **MR. HARPOOTLIAN:** Well, they've been going after
2 you, Mike, but you may have your say ---

3 **MR. MONTGOMERY:** I understand that.

4 **MR. HARPOOTLIAN:** --- after Mike if there's anything
5 left.

6 **MS. SHIELDS:** Appreciate it.

7 **MR. WISER - CROSS-EXAMINATION BY MR. MONTGOMERY:**

8 Q: Mr. Wiser, other than your Juris Doctorate and
9 your Bachelor's Degree, do you have any other
10 higher education?

11 A: I've taken courses at the National Defense
12 University on intelligence in the law and --
13 and also professional education, but not -- not
14 through credited institutions if you -- I think
15 is the point of your question.

16 Q: And you do not have ---

17 **MR. MONTGOMERY:** And I want to make sure I
18 understand, is he being offered as an expert in
19 criminology, is that his expert, what he's
20 being offered as an expert in?

21 **MR. HARPOOTLIAN:** He's being offered as an expert in
22 criminology and the ability to analyze the data
23 and generate this report concerning his
24 analysis of the causes of certain behavior in
25 the Five Points area.



1 MR. GOTTSBALL: Related to students.

2 MR. HARPOOTLIAN: What? Related to students. I'm
3 sorry, related only to students.

4 Q: Mr. Wiser, what training have you had in
5 behavioral science?

6 A: I've received in-service training from the FBI
7 in Behavioral Science and also in preparation
8 for the teaching of -- of courses including
9 Violence of America, I've read research done by
10 others.

11 Q: So you would say you're self taught then?

12 A: No. I -- I did, I received in-service training
13 from the FBI.

14 Q: Which ---

15 A: A number of different very qualified teachers.
16 I wouldn't go so far to say I'm self taught.

17 Q: Well, you haven't submitted a curriculum veto
18 that shows all of this training that you
19 purport to have, have you?

20 A: No, sir. I, my curriculum veto doesn't include
21 this.

22 Q: Okay. And have you ever testified before as an
23 expert witness in criminology or statistics?

24 A: No, sir, I have not.

25 Q: Have you been qualified by any court to testify



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 in those areas?

2 A: No, sir, I have not.

3 Q: Now, you mentioned that you had relied upon a
4 number of other studies and other writings in
5 developing your port, I want to talk to you
6 about some of those studies. One of those
7 studies that you mentioned in your bibliography
8 -- now, let me ask you, did you review
9 everything in the bibliography of the report
10 that you testified about?

11 A: I reviewed many of them or at least some of
12 them, the graduate students also reviewed every
13 one of them.

14 Q: Okay. Well, are you familiar for example,
15 since I believe your opinions relating to Five
16 Points as I understand them may have, result of
17 density of establishments, is that correct?

18 A: That's correct, sir.

19 Q: Did you review a study by a Mr. Livingston
20 called A Longitudinal Analysis Of Alcohol
21 Density And Assault?

22 A: I'd have to refresh my recollection, I didn't
23 -- I didn't review it in preparation for this
24 testimony and at the time I may have, I just
25 don't recall.



1 Q: Do you know where that study took place?

2 A: I -- I think I answered the question that I
3 can't remember that I reviewed it.

4 Q: So and I guess my question is would you say
5 that Melbourne, Australia has any relationship
6 to activity in Five Points?

7 A: It may or it may not.

8 Q: Okay. Do you remember one that you listed in
9 here called Drug, Hotspot's, Alcohol
10 Availability and Violence?

11 A: Who was it by, sir?

12 Q: It's by Mr. Gorman, Mr. Zue and Mr. Harrell.

13 A: I may have read that one at the time this was
14 prepared which was, I was doing this is 2014
15 and 2015.

16 Q: Do you know what the conclusion --

17 A: I can't recall.

18 Q: Okay. Now, what training have you had in
19 statistical analysis?

20 A: I've received no formal training in statistical
21 analysis that's why I work graduated students,
22 PHD candidates that were -- that were
23 conversive with those.

24 Q: Do you testify for example or can you tell the
25 court what common tools of statistical analysis



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 might be used by someone who was endeavoring to
2 correlate survey data?

3 A: Well, they often use regression analysis, but
4 I'm not an expert in regression analysis, sir.

5 Q: Okay. Do you know anything about how sample
6 size correlates with the effectiveness of -- of
7 a survey?

8 A: That's why I have the graduate students because
9 that's not my expertise.

10 Q: How many surveys did your team take as it
11 related to this study A Time For Change?

12 A: They survey -- we surveyed stake holders,
13 surveyed students on the shuttle, they did
14 surveys involving national surveillance, those
15 are among the surveys done by the students, by
16 the graduate assistants.

17 Q: Okay. And how many persons or individuals were
18 surveyed in the -- in performing that study?

19 A: I don't recall a precise number, but we
20 interviewed I think -- I think it says in the
21 forward I think it was about 15 stake holders
22 and I -- I know that the students interviewed
23 -- I can't remember the precise number of
24 students on the shuttles.

25 Q: So you have testified here that 15 is an



1 adequate number to draw a conclusion on topic
2 like this?

3 A: We interviewed the 15 stake holders to provide
4 background about the area, but this was also
5 there's one component about a larger study that
6 involved a survey of the literature and the
7 analysis of environmental conditions in Five
8 Points and The Vista.

9 Q: Okay. And you would have -- previously when
10 you were with the City and after the City you
11 were involved in some --- some predictive
12 policing kind of business, were you not?

13 A: I'm not sure I understand your question.

14 Q: My understanding was that there was a -- during
15 the time you were consulting you were involved
16 in something involving what I was, what was
17 described to me as predictive policing.

18 A: When I was with the police department and we
19 attempted to -- to link up data bases and use
20 some software to provide a better policing
21 solution for the region rather than just the
22 city so I'm at a presentation as a city
23 employee to city council about that, but that
24 did not come to fruition.

25 Q: Now, you have a situation I guess, are you



1 still a party to a lawsuit that's been brought
2 on Mr. Abahumi I believe.

3 A: That's been dismissed with prejudiced, sir.

4 Q: Okay. And so I want to make sure, you've never
5 testified as an expert in criminology?

6 A: That's correct.

7 Q: You've never testified as an expert in any
8 behavioral science, have you?

9 A: No, sir.

10 Q: You have no academic training specific to
11 provide you with the credential in behavioral
12 science, do you?

13 A: I don't have a degree in behavioral science,
14 no, sir.

15 Q: And -- and you have no certificate, credential,
16 any other document that you would put on the
17 wall that says you have expertise in behavioral
18 science, do you?

19 A: No, sir, I would not.

20 Q: And likewise you have not training in the
21 analysis of statistics such that you would have
22 any academic credential or other certification
23 that would make you an expert in that area?

24 A: No, sir, other than common sense.

25 Q: Okay. And you're trained as an attorney.



1 A: Yes, sir, I am.

2 Q: How does one guarantee trustworthiness in data?

3 A: Through corroboration.

4 Q: And what efforts have been made corroborate
5 that?

6 A: The -- one way to do it through corroboration
7 is through the analysis of the data when
8 considered against the framework of a theory
9 and we tried to do that in this study with
10 taking these results applying it to the
11 framework of routine activities theory which is
12 something that when you -- when you see this
13 and you compare it and you analyze it in the
14 framework of a theory it may, it provides some
15 corroboration in that regard when the data is
16 supported by the tendency of the theory.

17 Q: Did you in performing this study do any
18 analysis of anything related to the address of
19 800 Harden Street in Five -- in Five Points?

20 A: None particular, sir.

21 Q: Okay. And let me just ask you, what
22 credentials, background do you believe affords
23 you the qualification to speak as an expert on
24 the relationships that you purport to in this
25 study?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 A: The aggregate sum of my professional experience
2 combined with the work I do to have teaching
3 excellence I believe places me beyond what a
4 lay person would be able speak to any
5 particular issue with in this area.

6 Q: Okay. Have you authored any other studies in
7 this area?

8 A: Not in this area, I've authored another -- I've
9 another study with respect to counter-
10 terrorism, but not in this area.

11 Q: Okay. So and I will tell you if you were
12 offered as an expert in counter-terrorism I
13 wouldn't be voirding you.

14 MR. HARPOOTLIAN: Object to the question.

15 MR. MONTGOMERY: Okay.

16 Q: But you're being offered as expert in
17 criminology?

18 A: Yes, sir.

19 Q: And you're being offered based on one study and
20 the premise of this study appears to have been
21 based upon a conclusion as to how to facilitate
22 improvements and an effort to reduce crime in
23 the hospitality districts surrounding Columbia,
24 is that correct?

25 A: That was part of it, yes, sir.



1 Q: And do you know what that study we talked about
2 Drug, Hotspot's, Alcohol Availability and
3 Violence that you cited, do you know what it's
4 conclusion was?

5 A: I'd have to refresh my recollection.

6 Q: Okay. What have you done in preparing to
7 testify today?

8 A: I reviewed -- I reviewed my, the report that we
9 wrote, I went back and pulled a few reports
10 that I cited in the -- in the study and I
11 looked through some other materials as well on
12 alcohol just to refresh my recollection.

13 Q: What reports did you review in preparation
14 today?

15 A: I -- I looked at the Tuomey Report, the Parker
16 Report and Grenwald(phonetic) report.

17 Q: So the Tuomey Report being association between
18 a density of alcohol establishments and viable
19 profit for the urban neighborhoods ---

20 A: Yes, sir.

21 Q: --- 2012?

22 A: Yes, sir. I don't think I brought it with me,
23 I did bring the Parker Report, let me see if I
24 have the Tuomey.

25 Q: And the Parker Report is from 2004, is that



1 correct?

2 A: Yes, it is. Oh and I do have, I did locate the
3 Gorman June report, yes, sir, drug hotspots.

4 Q: And what's the conclusion of the conclusion of
5 the Gorman June report?

6 A: The findings suggested that alcoholic spots
7 could combine with other factors to create
8 unsafe neighborhoods.

9 Q: Isn't it fair to say that the Gorman June
10 report says in the final model the control for
11 the affects of all correlated both drug crime
12 density and the target and adjacent census
13 tracker remain significant predictors of
14 violent crime while only off sale density of
15 the target since this track remains significant
16 in the model. The findings indicate that drug
17 crime density explained a greater amount of
18 variants and violent crime rates than the
19 alcohol outward density, isn't that what that
20 study says?

21 A: Yes, it does.

22 **MR. MONTGOMERY:** Okay. I have nothing further at
23 this time, Your Honor, but I would suggest to
24 the court and I will continue my motion, this
25 witness is not qualified under Daubert or under



1 the South Carolina Rules To Provide Expert
2 Opinion on the areas in which he's been offered
3 as an expert.

4 **MR. HARPOOTLIAN:** Your Honor, if I might be heard?

5 **THE COURT:** One moment. First of all, does the
6 Department have anything that you want to voir
7 dire or ask this witness on the subject of his
8 being offered as an expert?

9 **MS. SHIELDS:** Your Honor, we -- we'd like the
10 opportunity to cross when that time comes. We
11 don't have any interest in voir diring this
12 witness.

13 **THE COURT:** Okay.

14 **MS. SHIELDS:** Thank you.

15 **THE COURT:** All right.

16 **MR. HARPOOTLIAN:** Please the court?

17 **THE COURT:** If you could, repeat for me exactly what
18 you're offering him for as a expert ---

19 **MR. HARPOOTLIAN:** As an expert?

20 **THE COURT:** --- yes.

21 **MR. HARPOOTLIAN:** In criminology and to -- which
22 would support the opinions he gives in this
23 report we just had marked for, marked as a, for
24 identification. There are conclusions in the
25 report based on if he is a -- and by the way he



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 teaches criminology, conclusions in the report
2 which are based on his -- if he's qualified as
3 an expert in criminology as a criminologist
4 that's what his -- his qualifications are, he's
5 not a statistician ---

6 **MR. MONTGOMERY:** Your Honor, Mr -- Mr. Harpootlian
7 can't testify to what the witness's
8 qualifications are, the witness has already
9 testified.

10 **THE COURT:** He's just -- he's just arguing about the
11 testimony he's already elicited from this
12 witness, we've already heard all of this.

13 **MR. HARPOOTLIAN:** Right. So -- so let me, if I
14 might cite you cases, Your Honor. Let me --

15 **THE COURT:** I don't -- I don't think that's
16 necessary, this gentleman is clearly quite an
17 expert and I am going to -- to find that he is
18 and expert in criminology and that he can offer
19 his opinions related to this report that he has
20 co-authored. If you want to continue arguing
21 ---

22 **MR. HARPOOTLIAN:** Well, all these cases.

23 **THE COURT:** --- you may, but it's not necessary,
24 you've already convinced me.

25 **MR. HARPOOTLIAN:** Okay. Let me then, you know, I'll



1 quit while I'm ahead except to say that the
2 cases do indicate he can rely on data collected
3 by somebody else. If that's an issue ---

4 **THE COURT:** That's ---

5 **MR. HARPOOTLIAN:** --- Okay.

6 **THE COURT:** Yeah. I'm -- I'm pretty familiar with -
7 - with the law concerning being qualified as a
8 witness. One of my favorite cases is the one
9 where I think it was our Supreme Court ruled
10 that it was error not to -- not to admit the
11 gentleman as a witness on coon dogs because he
12 read two magazines every month on coon dog
13 hunting, so.

14 **MR. HARPOOTLIAN:** Really?

15 **THE COURT:** It doesn't require -- it doesn't require
16 a degree in the subject and this gentleman is
17 clearly through self-study, trained as an FBI
18 Agent and -- and his formal studies qualified
19 as an expert in this area.

20 **Q:** So now that you've been qualified as an expert
21 let me get to the report of Time For Change and
22 you've explained already how you came to that
23 and to the extent that it dealt with alcohol
24 consumption by students specifically focusing
25 on if you -- if you -- well, first of all



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 generally was that one of -- on of the goals?

2 A: Yes, sir. When it -- when it comes to alcohol
3 we know, the research indicates a few things
4 about alcohol. First that alcohol is the drug
5 most consistently related to aggression, second
6 the research show that in half of all violent
7 events either the -- either the offender, the
8 victim or both have prior use of alcohol and
9 the third -- third important point that this
10 report focused on was, we're talking about
11 structural and environmental factors,
12 structural factors would be the like, for
13 example the -- the legislative or regulatory
14 framework in which it existed, the
15 environmental factors include things like
16 alcohol outward density. So the analysis took
17 all of these things together to come to some
18 conclusions about the -- the situation with
19 Five Points, The Vista and -- and students at
20 the University of South Carolina.

21 Q: Okay. Now, as part of the study that -- that
22 you're group or the folks working for you
23 interview students, 160 students on the
24 University Shuttle going to and from Five
25 Points?



1 A: Yes, sir.

2 Q: If you'll turn to page 14 of your report.

3 A: Yes, sir.

4 Q: Now, why would you want to assess the role of
5 the shuttle bus, what -- what -- explain --
6 explain to the court why you were -- why you
7 were doing it on page 14.

8 MR. HARPOOTLIAN: Your Honor, do you have a copy of
9 the report?

10 THE COURT: I do not.

11 MR. HARPOOTLIAN: Okay. Let me give you one.
12 There's one marked, but let me go ahead and
13 give you this one. I don't think you have it.

14 THE COURT: I don't think --

15 MR. HARPOOTLIAN: So you can ---

16 Q: So page 14 about 25 percent of the way down it
17 say in an effort to assess the role of the
18 shuttle bus ---

19 A: Well, the shuttle bus was begun by the
20 University following the tragic shooting with
21 student in Five Points in October of 2013.
22 When we looked at the data from Alcohol EDU
23 that, between 2013 and 2014 what we found was
24 there was a significant number, an increase in
25 the number of students that drank in bars, it



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 went from 14 percent of the alcohol use sample
2 to 29 percent over the course of a year, an
3 increase of more than 100 percent, that was
4 alarming and so we tried to determine whether
5 the shuttle bus which was provided for student
6 safety might actually have enabled students to
7 get to Five Points to drink in bars which would
8 have, of course, been an unintended consequence
9 of using the shuttle bus.

10 Q: Okay. What does the 14 to 29 percent, what is
11 that?

12 A: That's the -- from the Alcohol EDU Study and I
13 think that you could see that at the bottom of
14 page 14.

15 Q: Oh, I see.

16 A: Review of Alcohol EDU Study and the very final
17 paragraph that rolls over demonstrated an
18 increase from 14 percent in 2012 to 29 percent
19 in 2013, I'm sorry, I've got the, my years
20 wrong, regarding the percentage of freshmen and
21 younger transfer students reporting that they
22 drank in bars. So of the questions asked in
23 EDU, in Alcohol EDU one of them was where do
24 you drink and the, and it wasn't specific as to
25 addresses or establishments, but it was in bars



1 as opposed to in the dorm room or other places.

2 Q: Well, but y'all interviewed 567 students
3 boarding the shuttle and 452 exiting the
4 shuttle over the course of a Thursday, Friday
5 and Saturday, is that correct?

6 A: Yes, sir.

7 Q: And this would have been in 2014?

8 A: This would have been ---

9 Q: 2013?

10 A: --- I think in 2014.

11 Q: Okay. You think '14. Okay. During -- due to
12 personnel limitations you were unable to
13 observe every on-campus stop that night, as
14 expected we observed more behavioral cues of
15 intoxication for students who were returning
16 from Five Points, that means just, they went
17 down sober and came back drunk, more of them
18 did?

19 A: Yes, sir.

20 Q: And the University is delivering and picking
21 them up?

22 A: Yes, sir, for their safety.

23 Q: For their -- I got it, for their safety. Of
24 the 160 students who were able to interview 77
25 reported they were going to Five Points to



1 drink as opposed to eat, shop and socialize, 69
2 percent of the interviewed students admitted to
3 being under 21 so 69 percent of the kids
4 getting on the shuttle to go eat, not eat, but
5 drink in Five Points were under 21 ---

6 **MR. MONTGOMERY:** Your Honor?

7 A: Yes, sir.

8 **MR. MONTGOMERY:** I'd appreciate it if rather than
9 reading the study and asking the witness to
10 affirm it if he would examine the witness
11 through questions.

12 **MR. HARPOOTLIAN:** Well, Your Honor the only reason
13 I'm doing that is to expedite it and again
14 there's no jury here, it's you, an experienced
15 attorney who can separate my hyperbole or
16 inflection from reality, I'm just trying to get
17 to it, but I'll be happy to -- to strictly
18 follow the rules better if that's what you want
19 me to do.

20 **THE COURT:** Well, you know, we don't have to be too
21 strict about it, but, you know, let him, do let
22 him do the talking instead of you testifying.

23 **MR. HARPOOTLIAN:** So I just ask questions and he
24 talks?

25 **THE COURT:** Yes, please.



1 **MR. HARPOOTLIAN:** Doesn't sound like as much fun,
2 but I'll go ahead and do it.

3 **THE COURT:** We all love to hear you talk ---

4 **MR. HARPOOTLIAN:** I love to hear me talk.

5 **THE COURT:** --- Mr. Harpootlian, but he's the
6 witness.

7 **MR. HARPOOTLIAN:** Damn it.

8 Q: So go to that, the last line of your, of -- of
9 the paragraph above exploratory analysis,
10 publish that to the court, please.

11 A: Of the 160 students we were able to interview
12 77 percent reported that they were going to
13 Five Points to drink as opposed to eat, shop
14 and socialize, 69 percent of the interviewed
15 students admitted to be under 21 and that's
16 consistent with the Alcohol EDU data which only
17 surveyed freshmen and transfer students and I
18 think under a particular age which presumably
19 and although we didn't ask all of the freshmen
20 how old they were, presumably freshmen would be
21 under 21, but typically 18 years old so I think
22 there's a logical inference you can make that
23 -- that many of those students that drink in
24 Five Points and were under 21, were underage,
25 but also the survey was not repeated for



1 sophomores and juniors and of course the
2 sophomores presumably would be under 21 as
3 well.

4 Q: As would the juniors.

5 A: Yes, sir..

6 Q: So and the -- the freshman study that was done
7 by Alcohol EDU said that it went from 14 to 29
8 percent in '12 to '13 for the percentage of
9 freshmen and younger transfer students
10 reporting they drank in bars, it didn't say
11 what bars?

12 A: That's correct.

13 Q: Your shuttle interviews were primarily, they
14 were all Five Points?

15 A: They were in Five Points.

16 Q: Okay. Now and this number went from -- I've
17 lost it, and again that's not a Five Points
18 number 14 in 2012, 29 in 2013 drinking in bars
19 and it went up the next year, 2014, is that
20 correct? On the Alcohol EDU ---

21 A: I've been told this ---

22 Q: --- shows --

23 A: --- I've been told that they were, yes.

24 Q: Do you recognize that?

25 A: I recognize this, it's 39 percent the next



1 year.

2 Q: For?

3 A: For ---

4 Q: What year?

5 A: --- within that same group...

6 Q: For 2014.

7 A: 2014, yes, sir.

8 Q: So in the three years that this study was
9 conducted, in 2012 14 percent said they drank
10 in bars, these were freshmen?

11 A: Yes, sir. Freshmen and transfer students.

12 Q: Right. All under 21?

13 A: We don't know that, but common sense tells us
14 that they would be.

15 Q: Right. There are not many ---

16 A: Not many ---

17 Q: --- 21 year old freshmen.

18 A: --- there's a -- people like us don't go to
19 schools typically.

20 Q: 29 percent in 2013?

21 A: Yes, sir.

22 Q: And then in 2014 39 percent?

23 A: According to the most recent documentation ---

24 Q: Right.

25 A: --- we've seen, yes, sir.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: Is that an alarming increase to you?

2 A: Yes, sir. Well, I'll say it, I'll testify to
3 that. The reason they did this study was
4 prompted by the 14 to 29 percent which I felt
5 was an alarming increase, for -- for me to
6 learn subsequent that it's gone to 39 percent
7 is fair concern.

8 Q: Now, so if you go to page 18 and you go to ---

9 A: It may be on -- if ---

10 Q: I'm looking at alcohol density.

11 A: That's on page 19.

12 Q: Page 19. And do you have some conclusions
13 about alcohol density?

14 A: Yes, sir. The research is very consistent and
15 overwhelmingly demonstrates a positive
16 correlation between alcohol outlet density and
17 alcohol related harms and crimes. The analysis
18 would be similar to the decision that an
19 individual makes when drinking alcohol, for
20 each individual drink that you'd take and let's
21 just take it in context, but if you take that
22 one drink, the decision to take a drink out of
23 context and analyze one drink at a time it's
24 easy to say I could justify taking one drink,
25 but when you put it into context of other



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 drinks we hold drinkers accountable for the
2 decisions that they make about the subsequent
3 drinks because of the alcohol related harms
4 that occur. The same thing could be said of
5 analysis of alcohol establishments,
6 establishments that provide alcohol, each
7 individual, as you look at each individual
8 establishment you might be able to justify each
9 one individually outside of the context, but in
10 the context in which it exists in a, in an
11 environmental structural framework adding them
12 you have to take it in the context because of
13 the alcohol related harms that come with each
14 subsequent addition. I hope I've made myself
15 clear on that.

16 Q: Yep, sure. You say a number of studies many of
17 which correlate a relationship between the
18 concentration of alcohol outlets and crime.

19 A: Yes, sir.

20 Q: Some of them talk about for instance, if you go
21 to page 21, you quote a study by Gyimah,
22 Brimberg(phonetic) and Roncek in 2006, right?

23 A: Yes, sir.

24 Q: It says understanding relations between alcohol
25 availability and crime trends has significant



1 implications for alcohol control as well as
2 crime prevention and I don't want to read all
3 of this into the record because the court has
4 a copy of it, but tell me -- and this is based
5 on violent crime, correct?

6 A: This particular study, it may -- it may -- I
7 can't recall if it's with only violent crimes,
8 but crime rates, we generally focus on violent
9 crime, but it affects property crimes as well
10 and quality of life crimes, but I believe most
11 of these focused on violent crime, yes, sir.

12 Q: Okay. Now, when someone becomes impaired or
13 intoxicated I mean them being in the public is
14 crime, isn't that not public intoxication?

15 A: Yes, sir.

16 Q: Okay. If they tend to operate a motor vehicle
17 that would be a crime?

18 A: Yes, sir.

19 Q: Okay. If they tend to operate a motor vehicle
20 that would be a crime?

21 A: Yes, sir.

22 Q: And other crimes are predictable when people
23 get impaired or intoxicated they do, as my
24 daddy told me, stupid things, right?

25 A: Yes, they do.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: Now, is it your conclusion that the -- the --
2 and the -- based on these studies and your
3 personal experience that the increased number
4 of alcohol outlets in a specific geographic
5 area increases the chances of crime that
6 affects first the person that's impaired or
7 intoxicated and the general public around them?

8 A: That's what the data, that's what the research
9 tends to show, it's overwhelming all the
10 studies suggest that positive correlation
11 because it provides opportunities for crime for
12 both perpetrators and victims as well.

13 Q: So you believe there's a correlation between
14 the number of alcohol establishments and the
15 rate of crime in that specific area?

16 A: Yes, sir.

17 Q: As crime to themselves, people that get drunk
18 and impaired often times they were hurting
19 themselves?

20 A: Yes, sir. But hurting themselves as an
21 accident we're talking about victim offender
22 relationships here.

23 Q: We had -- you talked about a shooting?

24 A: Yes, sir.

25 Q: There are drunk drivers hitting and killing



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 people, we know of one occasion that occurred?

2 A: Yes, sir.

3 Q: And there are other, there are fights?

4 A: Yes, sir. There's a -- there's a wide branch
5 of crimes because alcohol, as I said, is the
6 drug most frequently lends to aggression.

7 Q: And do those crimes impact the areas
8 surrounding where the offender drinks?

9 A: Yes, sir.

10 Q: And if you are and you know a little about the
11 geography, if you're in Five Points and you're
12 trying to go back to a dormitory like Capstone
13 or a dormitory over on the east side of campus
14 do you have to go through the University Hill
15 neighborhood to get there?

16 A: Yeah. From my experience there's the --
17 student transit these neighborhoods routinely
18 and the quality of life in the neighborhoods
19 have suffered. On that -- these come from of
20 course on studies of interviews and state
21 quarters, but in addition to that my experience
22 with the Police Department.

23 Q: Now, you also looked at The Vista, did you not?

24 A: Yes, sir.

25 Q: Compare for me the amount of crime and the



1 quality of crime in The Vista as to Five
2 Points.

3 A: I think we've demonstrated that the amount of
4 crime was significantly less in The Vista
5 although I think that the percentage of violent
6 crime amongst that, lesser crime was greater --
7 -

8 Q: Right.

9 A: --- but overall violent, overall crime in The
10 Vista was less than crime in Five Points as you
11 look at the rates which are -- you're able to
12 compare in -- in a fair way.

13 Q: So -- and you say on page 19 the destiny of
14 these establishment offers an increased risk of
15 violence for individuals in or around these
16 areas, is that correct? Page 19.

17 A: I haven't found it on anything, but I know that
18 we said that.

19 Q: 19.

20 A: Yes, sir.

21 Q: It may be 20.

22 A: 20?

23 Q: Yeah, I'm sorry. These are ---

24 A: Yes. Yes.

25 Q: --- misnumbered.



1 A: Yeah. It's in the final paragraph.

2 Q: Okay. Or with a heavily populated, the more
3 heavily -- more ---

4 A: More over ---

5 Q: --- the more heavily populated.

6 A: --- more populated the area is with alcohol
7 establishments the more likely there will be
8 alcohol related harms and crime.

9 Q: And then you go ahead and say areas with higher
10 alcohol outlet -- go ahead.

11 A: Yeah. Areas with a higher alcohol densities
12 are more likely to have alcohol related harms
13 and higher crime rates across jurisdictions
14 that was in a study by Gorman. Also, in the
15 Grenwald study, also in the Gyimah study as
16 well, Schribner and Tuomey said the same thing
17 and it said as -- as will be shown these
18 establishments are also located in areas with
19 less guardianship and increased full of at risk
20 populations ---

21 Q: What does that mean?

22 A: At risk populations ---

23 Q: No. No. The guardianship, what does that
24 mean?

25 A: Okay. Guardianship, this goes back to routine



1 activities theory and in routine activities
2 theory you need three things for a predatory
3 crime to occur. You need a motivated offender,
4 you need a vulnerable victim and you need an
5 absence of capable guardians and that would be
6 an absence of the police and absence of cameras
7 or security. Those three things have to
8 converge in time and space and when they do you
9 have the opportunity for crime so in
10 criminology theory if you remove one of the
11 legs of that stool, that three legged stool
12 then you can prevent crime. That's the idea of
13 routine activities theory.

14 Q: Well, you have a motivated offender, motivated
15 could be impaired or intoxicated?

16 A: Yeah. Typically we're talking about an
17 offender with -- with bad intent, but for
18 victims and a victims are typically are those
19 that are intoxicated, but it could be a person,
20 an offender that was selective disinhibition
21 which is a term for when you suspend the social
22 norms and you become more aggressive, for
23 example, engaged in fighting.

24 Q: Okay. And you said the lack of cameras, there
25 are cameras all over Five Points, right?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 A: Yeah. Yeah, but it's -- it's in the eye of the
2 beholder that is the offender, if the perceives
3 that there's a lack of capable guardians then
4 -- then they can be involved in crime.

5 Q: Okay. So do you have any -- is the end of this
6 -- does this -- does this report have any
7 recommendations or are these just observations?

8 A: Well, there are a number of recommendations and
9 they involve taking a look at the things from
10 environmental factors relating to -- relating
11 to things that -- upkeep of buildings,
12 increasing natural surveillance that is -- but
13 also things like increasing service of food
14 because if you'll look at the statutory
15 framework which is a structural factor you'll
16 find that -- that for more observations that
17 most of these establishments don't serve food
18 and I note in here that there's been a lot of
19 discussion about bars, but attorneys are
20 usually more precise than that because there
21 are no such, there's no such thing as a bar in
22 South Carolina.

23 Q: It's only restaurants?

24 A: There are the three -- the three places in the
25 Constitution and the statutory framework that



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 are permitted to sale alcohol on the premises
2 are Inns, private clubs and restaurants.

3 Q: Inn lodging?

4 A: Inns.

5 Q: Inns. Oh, you said Inn?

6 A: I said Inns.

7 Q: Okay. I didn't hear you. Okay. Well, go to
8 page 38. And I'm not going to have you read
9 the whole paragraph, but you, did you find that
10 alcohol outlet density is a significant factor
11 in the crime committed against students and by
12 students?

13 A: We believe that that was a -- a central
14 variable.

15 Q: A central variable ---

16 A: A central variable. There -- of course
17 correlation and causality are two different
18 things, but when you look at correlation in the
19 context of a theory, a valid theory like
20 routine activities theory, we -- we think we
21 can make, we can demonstrate a positive
22 correlation which tends to, which we would
23 often think about as causality.

24 Q: And since alcohol density is one of the
25 causative factors, is that what you're saying?



1 A: Yeah. We believe that to be the case.

2 Q: Okay. The less bars, would it follow then the
3 less -- well, there is no such things as bars,
4 the less alcohol outlets would be better for
5 students and better for the community?

6 A: That's one of the recommendations that -- that
7 policy makers can make a decision about the
8 number of alcohol outlets that are available to
9 the public including to these, this at risk
10 population of students and they could reduce
11 that number and we believe that alcohol related
12 harms and crimes would decrease.

13 Q: And alcohol harm and crimes not only to
14 students, but the neighborhoods around it?

15 A: That's correct. That's -- we consider that to
16 be alcohol related crimes.

17 Q: Beg the courts indulgence for just a moment.

18 **MR. HARPOOTLIAN:** And Your Honor, I would offer the
19 Exhibit marked for identification into
20 evidence.

21 **MR. MONTGOMERY:** And Your Honor, I'd object.
22 Experts reports are not admissible, I've
23 provided you with my motion to limine -- in
24 limine the applicable legal authority there,
25 but the report itself, the expert's testimony



1 is there, the report's anonymous.

2 **MR. HARPOOTLIAN:** But -- let him a couple clarifying
3 questions.

4 Q: Did you prepare this for testimony in court
5 today?

6 A: No, sir, I did not.

7 Q: What year was it prepared in?

8 A: It was published in 2015.

9 Q: And when you -- when you prepared it did you
10 intend on using it as an expert in court,
11 you've never testified as an expert, right?

12 A: I've never testified as an expert.

13 Q: Right. So did you prepare it as an expert
14 report for anybody?

15 A: No, sir.

16 Q: It's a publication that was prepared and paid
17 for by who?

18 A: University of South Carolina.

19 Q: For?

20 A: For developing policies with respect to risky
21 behavior of students and developing strategies
22 to -- to provide alternatives for them.

23 Q: So this is not an expert report, this is your
24 publication, you and three other people wrote
25 for the University of South Carolina, they paid



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 for it, right?

2 A: That's correct.

3 Q: And the opinions that you're offering here
4 today are based on that study?

5 A: That's correct.

6 Q: Okay. All right.

7 A: That study and -- and my -- and other
8 knowledge.

9 Q: And other knowledge and experience, right?

10 **MR. HARPOOTLIAN:** Your Honor, I'm not offering as an
11 expert opinion, I'm offering it as a document
12 prepared by this witness, not as an expert to
13 testify in court, but it was prepared by him
14 for the University of South Carolina three
15 years ago.

16 **THE COURT:** Okay. Give me a moment. Mr. Montgomery
17 has the base of his objections is hearsay and
18 you're saying that it falls under the -- which
19 exception?

20 **MR. HARPOOTLIAN:** I guess I could say this and maybe
21 this will -- this will -- is this a document
22 that's kept in the ordinary course of business
23 at the University of South Carolina?

24 A: Yes, sir.

25 **MR. HARPOOTLIAN:** The business record's exception.



1 **MS. SHIELDS:** I have a different objection, but I
2 will happily wait until you have ruled on Mr.
3 Montgomery's objections.

4 **MR. HARPOOTLIAN:** And the DOR's objection to this
5 testimony?

6 **MS. SHIELDS:** Objection ---

7 **MR. HARPOOTLIAN:** And ---

8 **MS. SHIELDS:** --- I'm objecting to the admissibility
9 of this document.

10 **THE COURT:** Okay. Well, I'd like to hear from you
11 before I rule on the admissibility document
12 then.

13 **MS. SHIELDS:** Absolutely. First, I believe that the
14 introduction of this document would be
15 cumulative as he's already testified to exerts
16 from this document and second I would say that
17 it is an introduction that will be irrelevant
18 based on the fact that this was a document
19 created in October of 2015 and we're talking
20 about an establishment that wasn't even opened
21 until two years later and so the data within
22 here has nothing to do with the applicants here
23 today.

24 **THE COURT:** Well, I think it's being offered, if I
25 understand it correctly from Mr. Harpootlian's



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 perspective, it's being offered for the point
2 of showing that this is an area where young
3 people tend gather and -- which is one of the
4 things that's mentioned in some of the case
5 law, am I correct?

6 **MR. HARPOOTLIAN:** Not only where young people
7 gathered with is, The Zodiac Case is what I
8 remember which is an ALK Case, I'm not sure
9 whether that's your case or not, but the
10 density of establishments, it's affect on where
11 young people gather and in addition to that it
12 -- it -- the number of alcohol establishments
13 in part of, Your Honor, I believe Wilkinson or
14 it should consider and that density, how does
15 it effect the -- the population go down, then
16 we clearly heard data that is -- is
17 unfortunately the University may be delivering
18 the -

19 **THE COURT:** Are you -- are you then going to argue
20 under the part of the statute that talks about
21 alcohol outlets in areas that are already over-
22 served?

23 **MR. HARPOOTLIAN:** Yes, ma'am. And -- and I mean ---

24 **THE COURT:** Does that deal with retail stores or
25 does it deal with liquor by the drink basis?



1 MR. HARPOOTLIAN: Well, it, you know, we've been
2 looking at the statute, there's no -- I mean
3 they talk about basically retail and wholesale
4 in terms of -- I mean this is a retail
5 establishment. Now, there are other -- when
6 you get under retail there are, you know,
7 liquor stores, non-on premises and then
8 premises, but when you look at the statutory
9 scheme I think the -- the on-premises
10 consumption is a retail establishment, I mean
11 people have interpreted that statute when
12 they've been asked about liquor stores, I mean
13 typically red dot stores, I don't understand
14 why it only applies to them and that'll be one
15 of our arguments, but -- but we believe that
16 you have -- I mean one of the issue before you
17 can even get to that is you've got a huge
18 number of students, young people down there,
19 we've heard yesterday from the Chief of Police
20 about how many arrests, we've heard this
21 morning about how many kids are going down
22 there by the shuttle, how many of them come
23 back intoxicated, how many of them are -- are
24 -- shouldn't be drinking at all and just the
25 general environment for young people down there



1 is something Your Honor we believe could
2 consider, his testimony and this report was
3 done for the University by him, but it wasn't
4 his -- it's not an expert report and it's --
5 it's not cumulative, they're other things in
6 there I didn't ask him about, but will aid the
7 finder of fact in analyzing and there may be
8 some things in there that Your Honor, we
9 believe may educated Your Honor as just how
10 serious this problem is. I mean and let me --
11 let me say this I agree with the DOR that this
12 place wasn't down there in -- in, when he
13 finished his study in 2013, but that's not the
14 issue. One of the things under the and I
15 forget the name of the case I went through with
16 the Police Chief was -- was the previous
17 establishment or establishments a problem and
18 it's not just that previous establishment it's
19 that, all those establishments, but you don't
20 have all those establishments in front of you,
21 you've got one, do we need one more alcohol
22 outlet in Five Points and I think clearly based
23 on testimony and the Police Chief's testimony
24 the answer is no and I think his -- his data,
25 not just what he testified, but the data



1 contained in there will assist you in
2 evaluating the facts. Now, if these folks want
3 to keep that from you, if these folks don't
4 want you to have the total story, if these
5 folks don't want you to have all the facts, I
6 can understand why Mr. Montgomery doesn't, but
7 I sure as heck don't understand why the DOR
8 continues to take a path that would indicate
9 they no concerns, I don't mean no concerns, but
10 they are not opposing one more alcohol license
11 in Five Points. Now, I understand the
12 Department Of Revenue and they want more money,
13 maybe they shouldn't be the people representing
14 they folks that -- I won't get in to all that,
15 sorry.

16 **THE COURT:** Yeah. Let's not get into all that.

17 **MR. HARPOOTLIAN:** I'm getting ready to give a
18 speech.

19 **THE COURT:** I think the Department Of Revenue has
20 been fairly neutral in their -- in their ---

21 **MR. HARPOOTLIAN:** And I agree they shouldn't be.
22 They should be trying to stop this, that's my
23 only point.

24 **THE COURT:** Okay. Mr. Montgomery, let's -- let's
25 turn now to you and I would love to hear you on



1 the issue of whether or not this document can
2 be admitted as a -- under the business records
3 exception to the hearsay rule.

4 **MR. MONTGOMERY:** Your Honor, first of all I would
5 note the very front page of the document, the
6 bottom says the opinions expressed in this
7 document are those of the authors and do not
8 necessarily represent the position of the
9 University of South Carolina. The second ---

10 **THE COURT:** I'm not very concerned about that,
11 that's something they put -

12 **MR. MONTGOMERY:** The second thing I wanted to add to
13 -

14 **THE COURT:** --- on everything.

15 **MR. MONTGOMERY:** --- Your Honor, under Mr.
16 Harpootlian's definition as he was just to
17 apply today every book in the Thomas Cooper
18 Library would be a business record of the
19 University of South Carolina because it would
20 be something that the University retains in the
21 normal course and scope of it's business. I
22 would also point out to the court ---

23 **MR. HARPOOTLIAN:** Public record.

24 **MR. MONTGOMERY:** --- that when he started here he
25 talked about this as this witness expert report



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 when it's subjective to his hearsay under the
2 general rules of law then expert's report is
3 never admissible, it is always hearsay then
4 suddenly becomes a document has got a different
5 character entirely, it has to be either fish or
6 fowl, it can't be one at one point and another
7 at another point, we can't have this fluid
8 method. I understand that Mr. Harpootlian
9 enjoys hearing himself talk and giving
10 speeches, but the simple fact is this was
11 offered as a report, it was offered as the
12 expert's report, it is not a business record,
13 for what purpose in the University's businesses
14 might they retain this document other than as
15 an academic paper which again is like the
16 library. So -- and I would join in the
17 Department's objection with regard to
18 relevance, but the simple fact is, it is an
19 expert report, it has been offered as an expert
20 report until it was objected to as an expert
21 report and now, it's off to something else,
22 it's not admissible under the rules. The case
23 law I cited in my -- in my initial motion of
24 limine and there's reams of additional case law
25 that would support that, Your Honor. As a

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 matter of longstanding history under the
2 federal rules of evidence under state and
3 federal court decision, it isn't something that
4 belongs in the record, it's hearsay.

5 **THE COURT:** All right. Well, I'm ready to rule
6 unless you have something vastly different that
7 you want to argue.

8 **MR. HARPOOTLIAN:** I just want to say, it's not
9 vastly different, but Your Honor raised the
10 question, Kearny versus Allen it says this
11 determination, your determination, quote
12 involves infinite variety of considerations
13 related to the nature and operation of proposed
14 business and it's impact on the community
15 wherein -- wherein it should be situated,
16 that's what his testimony's about and that's
17 what that report -- if I didn't have an expert,
18 if I just had a study I could get and just
19 introduce that to the to the court without
20 anything other than authenticating and it
21 coming from the Thomas Cooper or wherever,
22 that's all I'm saying.

23 **THE COURT:** Well, under the business exception rule
24 which is Rule 803.6 it states provided however
25 subjective opinions and judgements found as



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 business records are not admissible. I am not
2 going to admit this report, I've heard the
3 testimony about it and I've heard our expert
4 witnesses thoughts on the subject, but that's
5 as far as I'm willing to go.

6 **MR. HARPOOTLIAN:** Will you have that report marked
7 as a Courts Exhibit?

8 **THE COURT:** I think you marked it ---

9 **MR. HARPOOTLIAN:** As an exhibit.

10 **THE COURT:** --- and you've offered it. I've -- it
11 will -- it will go with the record if you
12 should ---

13 **MR. HARPOOTLIAN:** Okay.

14 **THE COURT:** --- appeal my ruling on this evidentiary
15 matter, it will be a part of the record an
16 you're welcome to do that.

17 **MR. HARPOOTLIAN:** Just trying to protect the record,
18 I'm sorry.

19 **THE COURT:** Nope. You're good.

20 **MR. HARPOOTLIAN:** Your Honor, I have one more
21 question for him.

22 **Q:** There are an number of establishments in Five
23 Points area including this one as opined that
24 are allowed to serve alcohol after 2:00 a.m.
25 under a city permit. Did y'all look at that,



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 do you have any opinion about the impact of
2 having them and the legal to serve alcohol from
3 2:00 a.m. until sun up as I understand it.

4 A: It provides more opportunity and opportunity is
5 part of the concern about alcohol density.

6 Q: Thank you, please answer any of the questions
7 that Mr. Montgomery might have.

8 **MR. MONTGOMERY:** Thank you, Mr. Harpootlian.

9 Q: Mr. Wiser, you talked about this ---

10 **MS. SHIELDS:** I was just curious if we could just
11 take a quick break.

12 **THE COURT:** Yes. Let's do -- and also before we
13 begin, I apologize, what was the number given,
14 the document that we were just wrangling about?

15 **THE COURT REPORTER:** Intervenor's 2.

16 **THE COURT:** Intervenor's 2. All right. Let's take
17 a 10 minute break.

18 **MS. SHIELDS:** Thank you, Your Honor.

19 **(Off the Record)**

20 **MR. HARPOOTLIAN:** Please the court, Your Honor.

21 **THE COURT:** Certainly.

22 **MR. HARPOOTLIAN:** Since you ruled the, that you will
23 not allow the -- the report in I believe I need
24 to enunciate or maybe Mr. Montgomery and I can
25 -- can agree that the -- the information he



1 relied on from the report, he's testified
2 that's what he relied on for his opinion if we
3 could enter it into the record so that there's
4 some record of what he relied on. Am I clear?
5 I didn't asked him what did you rely on in
6 reaching your opinion, I assume that the report
7 perhaps coming in and you can look at that - or
8 do you -

9 **THE COURT:** I think you -- he testified that he was
10 relying on this report and that he was -- he
11 was reading from the report.

12 **MR. HARPOOTLIAN:** He was, but the -- the basis, let
13 me find my copy, if you look at -- I'm sorry,
14 if you look at -- I think there's a
15 bibliography in here somewhere, maybe I'm
16 wrong. Yeah. If you go to references, maybe
17 what I do is I -- I offer those into evidence.
18 If I, Your Honor if I might ask the witness one
19 question.

20 **Q:** Are the references that you cite in this report
21 which you relied on in part to reach your
22 opinion?

23 **A:** Yes, sir.

24 **MR. HARPOOTLIAN:** Could I just introduce the
25 references rather than have him read them into



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 the record?

2 **THE COURT:** Is there any objection to introducing --

3 -

4 **MR. HARPOOTLIAN:** Or I can have him publish all of
5 them and ---

6 **THE COURT:** --- the list of references that were
7 relied upon in creating the document?

8 **MR. MONTGOMERY:** I understand and my question, Your
9 Honor, is this, I mean are we then going to
10 incorporate those documents into the record?

11 **THE COURT:** No.

12 **MR. MONTGOMERY:** Okay. I mean that -- I'm trying to
13 make sure I understand I mean if -- if -- why
14 don't we do this ---

15 **MR. HARPOOTLIAN:** Yeah.

16 **MR. MONTGOMERY:** Why don't we just ask him is this
17 list of references the references you relied
18 upon in preparing your opinion and with the
19 stipulation that you're just entering that for
20 the purpose of showing those references and not
21 with trying to incorporate those documents into
22 the record, have him identify, mark it as
23 Number 3 and call it a day.

24 **MR. HARPOOTLIAN:** Fine, that's all I want to do.

25 **THE COURT:** Okay.



1 MR. HARPOOTLIAN: Great.

2 THE COURT: Great.

3 MR. HARPOOTLIAN: And Your Honor, I think that ---

4 THE COURT: You want to that as Number 3 then?

5 MR. HARPOOTLIAN: Please, and then let me have him
6 identify it. Please the court, Your Honor.

7 THE COURT: Yes.

8 (Intervenor's Exhibit Number 3 was marked for
9 identification purposes.)

10 Q: All right. Would you look at Exhibit Number 3?

11 A: Yes, sir.

12 Q: Are those documents that are cited in that
13 bibliography sources that you used or were used
14 in the preparation of not only the report and
15 let me read the name of the report in the
16 record, I haven't done that officially, you
17 prepared a report called Time For Change and
18 Evidenced Based Approach To Crime Prevention
19 and Environment change, correct?

20 A: Correct.

21 Q: Authored by you, Rhonda Denevoe, Jamie Duncan
22 and Terra Martin on 10/1/2015?

23 A: Correct.

24 Q: And in preparing this report is that list of
25 references, those books, articles ---



1 A: Articles and statutes.

2 Q: And statutes?

3 A: Yes, sir.

4 Q: Are those part of what you relied on to prepare
5 that report?

6 A: Yes, sir.

7 Q: And is it part of what you relied on here today
8 to give your opinion?

9 A: Yes, sir.

10 Q: Okay. I think that covers it. Thank you, Your
11 Honor. Thank you, Mr. Montgomery.

12 **THE COURT:** All right. Intervenor's Number 3 is
13 admitted.

14 **(Intervenor's Exhibit Number 3 was admitted at this**
15 **time.)**

16 **MR. MONTGOMERY:** Without objection.

17 **THE COURT:** All right. Thank you. All right. Mr.
18 Montgomery?

19 Q: May it please the court. Mr. Wiser, your
20 report's dated October 1st, 2015, is that
21 correct?

22 A: That's correct, sir.

23 Q: And you base this report on data from 2012, '13
24 and '14, is that correct?

25 A: Yes, sir.



1 Q: Have you done any further study that is
2 subsequent to that report?

3 A: No, I have not.

4 Q: So you haven't done any analysis of any data
5 after 2014?

6 A: Not with respect to Five Points no, sir.

7 Q: Now, you testified in there and I think y'all
8 got the numbers mixed up, but I think the
9 report actually says you interview 160
10 students, is that correct?

11 A: I think they, I think you're right -- I think
12 you're right, that was on page -- let's see.
13 Yeah they counted -- they counted students, but
14 interviewed, I think it was 160 I don't see it,
15 but I think you're correct.

16 Q: In my recollection there was 500 and some odd
17 going on, 400 and some odd coming off and y'all
18 interviewed 160, does that sound right to you?

19 A: Yeah. We observed 567 boarding, 452 exiting of
20 the 160 students we were able to interview,
21 yes, sir.

22 Q: How did you select the students that you
23 interviewed?

24 A: The graduate students approached students and
25 some agreed to be interviewed and some did not.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 Q: So it was a voluntary selection ---

2 A: That's correct.

3 Q: --- as opposed to a scientific selection?

4 A: That's correct.

5 Q: Okay. What time of day did you conduct these
6 interviews?

7 A: These were done at nighttime, the buses run
8 from 11:15 p.m. till 3:00 a.m. and so they were
9 done during that period of time.

10 Q: Other than establishments serving food and
11 drink, what's open in Five Points between 11:15
12 and 3:15?

13 A: Not -- not much. If I -- I can't think of
14 anything, but there might be some other kind of
15 ---

16 Q: So that would tend to skew your ---

17 A: --- gas station.

18 Q: --- that would attend to skew your data towards
19 people going to have food and beverage, would
20 it not?

21 A: Yes, sir.

22 Q: Okay. And from a standpoint of your data did
23 you normalize your data for anything like the
24 difference of population between The Vista and
25 Five Points and the surrounding area when you



1 looked at your crime statistics?

2 A: They did crime rates in order to normalize the
3 data, but not populations of surrounding areas.

4 Q: So you didn't look at the social economic areas
5 of, surrounding those two areas?

6 A: No, sir.

7 Q: And you didn't look at the population density
8 surrounding those areas?

9 A: No, sir.

10 Q: And you'd agree with me that there are known
11 criminological correlations between
12 sociological status, socioeconomic status and
13 between population density in addition to the
14 alcohol things you were talking about?

15 A: Yes, sir.

16 Q: So when you looked at the crime rates those
17 would necessarily include factors that you
18 didn't distinguish for like socioeconomic
19 group, like population density, lots of things
20 like that, right?

21 A: There are factors that weren't included.

22 Q: Right.

23 A: Sure.

24 Q: And those factors could have had an affect on
25 your data, could they not?



1 A: Yes, sir.

2 Q: Okay. And in reaching your conclusions did you
3 do any analysis of the number of establishments
4 that were serving alcoholic beverages over any
5 longitudinal period?

6 A: We did not do a longitudinal study.

7 Q: So when you talk about concentration you didn't
8 -- you didn't determine or try to analyze
9 whether that concentration had increased or
10 decreased, you simply looked at it at a fixed
11 point and time?

12 A: Yeah, this was a snapshot study.

13 Q: So you -- in -- in looking at that snapshot
14 study it's impossible for you to take and
15 analyze and opine on whether or not the
16 problem's getting worse or getting better or
17 the concentration's getting worse or getting
18 better?

19 A: With respect to some factors, but we did have
20 of course the Alcohol EDU factor which changed
21 over time so I mean that was, that presented
22 some change and there was some analysis done,
23 we tried to control for the number of
24 establishment something we received from the
25 tables that there was some consideration in



1 that.

2 Q: Well, you looked at density of establishments
3 in a block.

4 A: Of the establishments. Right, but we didn't
5 look at population density in the surrounding
6 areas.

7 Q: And you didn't -- and you looked at the number
8 of establishments, but you didn't look at the
9 capacity of the establishments you analyzed ---

10 A: Not capacity, we looked at the number.

11 Q: And you'd agree with me the capacity is a
12 factor that should be considered, shouldn't it?

13 A: It -- it can be.

14 Q: And did you also take a look at the changing
15 student population at the University in other
16 words the demographic in the student
17 population?

18 A: No, sir, no. Every study has it's limitations
19 and this one is no exception to that -- to
20 that.

21 Q: Now, as you look at it did you analyze any
22 practices to try to determine what might be
23 good practices, what might be bad practices to
24 work towards solving some of the concerns you
25 raised?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 A: We made some recommendations.

2 Q: Okay.

3 A: And some of those included looking at the
4 statutory framework and I mean actually
5 enforcing the law as it's written. Some of it
6 had to do with encouraging policy makers to
7 take a look at the -- the density of alcohol
8 outlets, there were a number of factors that we
9 discussed in that, recommendations.

10 Q: Okay. Those are macro level recommendation I
11 guess you might say, right?

12 A: Yes, sir.

13 Q: On a micro level did you look at the operation
14 of the establishments and their means and
15 methods of operation as a possible way to help
16 work on the problem.

17 A: Some of that. We -- we looked at situational
18 crime factors, we looked things like
19 territorial reinforcement, natural
20 surveillance, those kinds of things, we looked
21 at -- at -- made observations about that, the
22 number of establishments that employed security
23 and things like that.

24 Q: How about using things like sophisticated tools
25 to keep people with fake ID's from coming in?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 A: Yeah. We did not look at those kinds of
2 things.

3 Q: But you'd agree with me that would be something
4 that would be very beneficial, wouldn't it?

5 A: I -- I would encourage -- I would encourage any
6 on-premise alcohol establishment to use all the
7 technology and means to not enable underage
8 drinkers to drink.

9 Q: And if you'll ---

10 A: So I -- I applied that.

11 Q: And if they're doing that they're doing
12 something towards solving that problem or
13 helping solve that problem.

14 A: They're solving that problem for their
15 establishment, the problem is that it may, they
16 may simply displace the problem, that would be
17 the concern that it would just displace the
18 problem to another establishment that doesn't.

19 Q: If you develop a situation where you have that
20 policy happening everywhere that would
21 certainly solve the problem or go a long way
22 towards it, wouldn't it?

23 A: It would -- it would help mitigate the problem.

24 Q: Okay. And doing things like not having
25 discounted beverages among other things,



1 violates the law in many respects, but not
2 having discount beverages also helps in that
3 regard, doesn't it?

4 A: All of these things help mitigate the problem.

5 Q: Not serving giant drinks full of alcohol helps
6 the problem, right?

7 A: Yeah. Enforcing the law actually it does help
8 the problem.

9 Q: And would it be fair to say doing things like
10 encouraging increase in the amount of food
11 you're selling would help the problem too
12 wouldn't it?

13 A: It would actually help to comply with the law.

14 Q: Okay.

15 A: Because businesses must primarily and
16 substantially serve food.

17 Q: Okay. And as you look through the report how
18 much money did y'all spend on this study?

19 A: I think that the grant totaled somewhere
20 between 15 and \$20,000, I think it was about
21 \$20,000.

22 Q: And the grant came from the University?

23 A: Yes, sir.

24 Q: And let me ask you this, is there -- is there
25 any particular reason why at least I couldn't



1 find anything in -- in reading your story that
2 there weren't proposals of things that the
3 University could do to solve the problem?

4 A: We -- I think in the report it talks about a
5 number of things generally that -- that all of
6 the -- the state quarters have to work in
7 corroboration and I believe that the
8 University, I think the University was
9 mentioned in that.

10 Q: As a staple to working corroboration, but you
11 didn't make any policy recommendations to the
12 University about ways they could help solve the
13 problem, did you?

14 A: Not specifically.

15 Q: Okay. So your policy recommendations you made
16 were largely focused on the entertainment
17 districts in Columbia?

18 A: Hospitality districts.

19 Q: Right. And you were -- but you didn't look at
20 anything that happens off campus did you, not
21 in these areas?

22 A: No. There were -- the study was limited to
23 only two of the hospitality districts, that was
24 one limitations and study the comparison of the
25 two.



1 Q: Now, the survey data is not just college
2 freshmen it's all first year students at the
3 University, isn't that correct?

4 A: It's -- that's why I said first year, it'd be
5 freshman and transfer students, but I think the
6 transfer students have to be under the age of
7 23 if my memory serves me correctly.

8 Q: So there are legal folks in there?

9 A: There would be some in there, yes, sir.

10 Q: Did you make any effort to distinguish between
11 those that are 21 and over and those that are
12 under 21?

13 A: No, sir. I -- I did not conduct the Alcohol
14 EDU Survey, but they did not do that.

15 Q: And they didn't provide you that data to use in
16 looking at your survey, in your report?

17 A: The ---

18 Q: Now ---

19 A: --- age of the -- the age of the students?

20 Q: Yes, sir.

21 A: No, they did not.

22 Q: And you'd agree with me that's -- that's a fact
23 that has to be considered as well.

24 A: Technically, yes, but I think that it's a fair
25 inference and reasonable people would agree



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 that -- that the vast majority of freshmen are
2 under the age of 21. I don't -- I don't that's
3 that a stretch.

4 Q: Well, but this wasn't just freshmen, that was
5 my point.

6 A: That's right. But -- but there was I think
7 around 6,000 students. I think it was like
8 6,016 or so, but -- and the freshmen class
9 approached 5,000.

10 Q: And you're familiar with, for example, in South
11 Carolina we have a program where students can
12 go to one of the technical colleges for two
13 years and then matriculate university and that
14 happens frequently, doesn't it?

15 A: Yes, it does.

16 Q: And so those students might be 20 or 21 coming
17 in?

18 A: They can be.

19 Q: Yes. Okay. Now, I think the number you said
20 that was a concern was 39 percent.

21 A: Yeah. It went from 14 to 29 percent and that's
22 what's in the -- in the study ---

23 Q: Okay.

24 A: --- and then the -- the latest data showed it
25 was at 39 percent.



1 Q: Well, you're looking at 29 percent, where's the
2 other 71 percent of that drinking occurring?

3 A: They're occurring at -- some at residences,
4 some in dormitories and -- and places like
5 that..

6 Q: And those would be things you would do within
7 the unique control of either the students or
8 the University, wouldn't it?

9 A: The dormitories would be, but there are many
10 students, only really the freshmen, there's --
11 I mean mostly it's freshmen that live on-
12 campus, most other students live off campus in
13 -- in housing that they obtained off the
14 economy.

15 Q: And you mentioned and I think you'd agree with
16 me there's a -- there's a real issue in any
17 study you have to address is to the difference
18 between correlation and causality?

19 A: That's correct.

20 Q: And part of being able to demonstrate that is
21 to have a large enough sample size and to do
22 things on a longitudinal basis, wouldn't you
23 agree with me?

24 A: Not always, you know, the studies don't have to
25 be longitudinal, but -- but you have to have --



1 you have to have controls in place that -- and
2 reliable data. We believe that the data we
3 have was reliable, but also when you look at
4 the data in -- in the context of -- of a theory
5 and -- and there seems to be -- it seems to be
6 consistent with the theory, that gives you some
7 confidence in your data as well.

8 Q: And as you look at this and, you know, as -- as
9 a criminologist at what point do you decide to
10 curtail a legal activity?

11 A: Those are -- those are decisions for policy
12 makers and they have to be done on a case by
13 case basis.

14 Q: Mr. Wiser, are you being compensated for
15 appearing today here?

16 A: No, sir.

17 Q: You're just doing it as part of your job duties
18 with the University?

19 A: No, sir. I don't represent the University here
20 today, I'm just doing it as a public service.

21 Q: When you -- where do you live?

22 A: I live in Richland County.

23 Q: What's your address?

24 A: 114 Lake Carolina Boulevard.

25 Q: Okay. So you live in the northeast quadrant?



1 A: Yes, sir.

2 Q: Is there a particular reason you decided to
3 move to the Northeast Columbia?

4 A: Yes, sir.

5 Q: And what was that?

6 A: There were golf courses out there.

7 Q: Okay. Mr. Wiser, as you -- strike that. I
8 don't have any further questions. Thank you,
9 sir.

10 **THE COURT:** Anything from the Department?

11 **MS. SHIELDS:** I don't have any questions, Your
12 Honor.

13 **THE COURT:** Okay. All right. Then you can ---

14 **MR. HARPOOTLIAN:** Well ---

15 **THE COURT:** Oh, you have something else, Mr.
16 Harpootlian?

17 **MR. HARPOOTLIAN:** Just a follow-up.

18 **MR. WISER - REDIRECT EXAMINATION BY MR. HARPOOTLIAN:**

19 Q: In examining statistics at -- at -- I think we
20 indicated you've looked at the impact before 2
21 --20162017 that was done by the University,
22 correct?

23 **MR. MONTGOMERY:** Your Honor, I'm going to object.
24 This is outside the scope of cross-examination.
25 This is a re-direct.



1 **MR. HARPOOTLIAN:** Well, let me -- let me -- okay.

2 Q: You were asked about how our problems compare
3 to other nationally or SEC, do you have any
4 information on that?

5 **MR. MONTGOMERY:** Your Honor, again, I object. That
6 wasn't covered in cross either.

7 **MR. HARPOOTLIAN:** But it was, I thought he was asked
8 basically how, you know, is this a problem. I
9 mean, I think one way you get to that is to
10 compare to other -- other even national
11 statistics or SEC statistics.

12 **THE COURT:** I don't recall him asking that.

13 **MR. HARPOOTLIAN:** All right. Your Honor, withdraw
14 the question, no further questions.

15 **THE COURT:** All right. You can step now.

16 **MR. HARPOOTLIAN:** Okay. April Lucas, please.

17 **APRIL LUCAS,** having been duly sworn, testifies as
18 follows:

19 **MS. LUCAS - DIRECT EXAMINATION BY MR. HARPOOTLIAN:**

20 Q: Please the court.

21 **MR. WILKINSON:** Mr. Harpootlian, excuse me. Your
22 Honor, Jack Wilkinson with the State Newspaper.
23 I don't know if it's appropriate for me to take
24 a picture while I'm in here with my phone. I
25 thought I would ask.



1 **THE COURT:** As long as you're not disrupting what's
2 going on, you've filled out your form, so yes.

3 **MR. WILKINSON:** Thank you, very much.

4 **MR. HARPOOTLIAN:** Your Honor, any objection to Mr.
5 Wiser leaving?

6 **THE COURT:** Oh, no.

7 **MR. MONTGOMERY:** No objection, Your Honor.

8 **THE COURT:** You're excused. Thank you, Mr. Wiser.

9 **Q:** State your full name for the record, please.

10 **A:** April Lucas.

11 **Q:** Okay. And Ms. Lucas, tell the Court briefly
12 what your educational background is.

13 **A:** I am -- I went to the University of South
14 Carolina, received a degree in International
15 Studies, after that I went to law school at
16 George Washington University in Washington,
17 D.C. and I practiced law there for a few years,
18 returned home to South Carolina in 1981 and --
19 so that's my background.

20 **Q:** Where'd you practice when you came back?

21 **A:** I practiced first with the McNair Law Firm then
22 I practiced with Nexsen and Pruet.

23 **Q:** And are you currently practicing law?

24 **A:** I am semi-retired. I take occasional projects
25 for the firm, I'm of counsel, but yes,



1 essentially retired.

2 Q: Okay. And where do you live?

3 A: I live at 911 Laurens Street and I've been
4 there for 31 years.

5 Q: And tell me where 911 Laurens Street is.

6 A: 911 Laurens Street is just a couple of blocks
7 maybe a little bit over from 800 Harden Street
8 which is the location of -- of the Roost.

9 Q: Okay. And so you've lived -- that's in -- the
10 Court's perspective -- and I'll show you a
11 couple of maps in just a minute that you've
12 prepared.. Where -- how close are you to this
13 establishment the Roost?

14 A: I think it's a little over two blocks?

15 Q: Okay. And you're in a residential neighborhood
16 called?

17 A: Called the University Hills Neighborhood.

18 Q: So to get perspective on that, if you're coming
19 out of Five Points on Greene Street, cross the
20 railroad tracks ---

21 A: Correct.

22 Q: --- take a right?

23 A: That's correct.

24 Q: Go up to the two blocks to Laurens?

25 A: One and a half



1 Q: One and a half blocks, take a left?

2 A: No, you take a -- well, if you're on Greene
3 Street you cross railroad tracks, you turn
4 right ---

5 Q: Okay.

6 A: --- and that is Laurens Street and we're a
7 block and a half.

8 Q: Are you on the railroad tracks side or across
9 the street?

10 A: We're across the street.

11 Q: Okay. Before I guess that's Pendleton that
12 comes in, before or after Pendleton?

13 A: It's before Pendleton between College Street
14 and Pendleton Street.

15 Q: Okay. And we're going to show them that in
16 just a minute, you lived there for how long?

17 A: 31 years.

18 Q: And you are a protestant here today, are you
19 objecting to the Roost having a -- a alcohol
20 license, a license to sale on premises liquor?

21 A: Yes, I am.

22 Q: And we're going to go into the reasons for that
23 in just a moment, but before we get to that is
24 there any neighborhood association there?

25 A: There is. It's the University Hills



1 Neighborhood Association. I'm an active member
2 in that -- in that group.

3 Q: And how old is that association?

4 A: I believe it was formed in the early 1990s.

5 Q: Okay. And who's the president of that
6 association?

7 A: That would be Tom Gottshall.

8 Q: And he's the other protestant who's here today,
9 is that correct?

10 A: That's correct.

11 Q: Okay.

12 A: I'm also a representative from that association
13 to a -- an informal coalition of Five Points
14 Neighborhoods, so I attend those meetings and
15 we regularly talk about problems, concerns, and
16 other things that we might address that relate
17 to Five Points.

18 Q: And those neighborhood organizations would be?

19 A: Well, they're, you know, there must be 10 or
20 12, but some of them include Wales Garden,
21 Shandon, Martin Luther King Neighborhood,
22 Lyons, Waverly, University Hill and there are
23 a few others.

24 Q: Hollywood Rose Hill?

25 A: Hollywood Rose Hill.



1 Q: Okay. So it would be if you're driving Blossom
2 Street from the University?

3 A: Okay. Towards Five Points?

4 Q: Towards Five Points.

5 A: Yes.

6 Q: On the right would be Maxcy Gregg Park?

7 A: Yes.

8 Q: You go under a train trestle?

9 A: Yes.

10 Q: Immediately to your right would be the Wales
11 Garden's neighborhood?

12 A: That's correct.

13 Q: And up the hill, if you will, would be the
14 University neighborhood?

15 A: That -- well -- right. We're -- we're up the
16 hill, we're the closest to the University. I
17 am about one and a half blocks from Capstone.

18 Q: Okay. And if you'd continue going Blossom
19 Street you would then go into what's called
20 Shandon Neighborhood?

21 A: That's correct.

22 Q: If you went up Saluda, you'd hit Hollywood Rose
23 Hill at the top of Saluda where it hits
24 Heyward?

25 A: That's correct.



1 Q: If you went down to Harden Street and took a
2 left, you would go to Waverly Neighborhood and
3 Lyon's Neighborhood after you crossed Devine
4 Street?

5 A: Gervais Street.

6 Q: After Gervais Street, I'm sorry. I think, is
7 it Waverly or is it Martin Luther King?

8 A: That's Waverly. Martin Luther King is, if
9 you're going down Greene Street, it's directly
10 behind Five Points. Martin Luther King Park is
11 right there (indicating).

12 Q: So Greene Street dead ends basically into
13 Martin Luther King Park?

14 A: Yes.

15 Q: Okay. And then up the street would be Waverly
16 next?

17 A: Yes.

18 Q: And then Lyon's?

19 A: Yes.

20 Q: Okay. And so there are a number of
21 neighborhoods?

22 A: That's correct.

23 Q: And if all those neighborhoods opposed
24 additional alcohol -- in your meetings opposed
25 conditional alcohol licenses ---



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 **MR. MONTGOMERY:** Your Honor, isn't that hearsay?

2 **MR. HARPOOTLIAN:** Well, Your Honor, it -- it may
3 very well be.

4 **Q:** But let me ask you this, have you attended
5 meetings of these neighborhood groups?

6 **A:** Yes.

7 **Q:** Have you taken votes?

8 **A:** We have in some of the neighborhoods, yes.

9 **Q:** Okay. And are those votes all consistent with
10 not allowing any more alcohol establishments in
11 Five Points?

12 **A:** The votes that have been taken so far, yes.

13 **Q:** Okay. Now, you prepared for me -- and I'm
14 going to introduce the -- well, first of all,
15 did you prepare this map?

16 **A:** I did.

17 **Q:** And does it depict the number of alcohol or
18 what we would call bars, those are places that
19 serve -- and also it -- it designates
20 restaurants, correct?

21 **A:** This is -- this map shows the outlets for
22 alcoholic beverages. These are the licenses
23 that we were able to identify from the
24 Department Of Revenue database, their online
25 database.



1 THE COURT: Has this been marked, Mr. Harpootlian?

2 MR. HARPOOTLIAN: We're going to have her identify
3 it or do you want me to have it marked for
4 identification?

5 THE COURT: If you would so that while you're
6 talking about it we can give it a number so
7 that ---

8 MR. HARPOOTLIAN: Okay.

9 THE COURT: --- later on -

10 MR. HARPOOTLIAN: Thank you, Your Honor.

11 THE COURT: --- it will be clear for the record.

12 MR. HARPOOTLIAN: Okay.

13 COURT REPORTER: Do you want me to put it on the
14 back?

15 MR. HARPOOTLIAN: Back will be great.

16 (Intervenor's Exhibit Number 4 was marked for
17 identification purposes.)

18 Q: Exhibit Number 4, is this what you prepared?

19 A: Yes.

20 Q: Okay. And do you -- it was either prepared by
21 you and then sketched out at your direction?

22 A: That's correct.

23 Q: And you personally know from living in the
24 neighborhood where all of these places are?

25 A: Yes.



1 Q: Okay.

2 MR. HARPOOTLIAN: Your Honor, we would offer Exhibit
3 Number, turn it over, what's the number?

4 COURT REPORTER: 4.

5 THE WITNESS: 4.

6 MR. HARPOOTLIAN: It's been marked for
7 identification, any objection?

8 MR. MONTGOMERY: I don't have any objection, Your
9 Honor, I've seen the document.

10 THE COURT: Okay.

11 MR. HARPOOTLIAN: Your Honor, I'm going to give you

12 ---

13 THE COURT: Any objection from the Department?

14 MS. SHIELDS: No, Your Honor.

15 MR. HARPOOTLIAN: Sorry. I keep overlooking the
16 Department. Let me give you a small, I'm also
17 going to have a big blow up so it's -- because
18 it's easier to read.

19 THE COURT: All right.

20 Q: Okay. So ---

21 THE COURT: All right. Intervenor's 4 is admitted.
22 (Intervenor's Exhibit Number 4 was admitted at this
23 time.)

24 MR. HARPOOTLIAN: Thank you.

25 Q: So in looking at this large -- in looking at



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 this large blow up, maybe I should stand back
2 here, you've designated certain things,
3 restaurant, gourmet shop, Delaney's, Drip,
4 Grilled Teriyaki, Nicky's Pizza, Eddie's
5 Calzones, Southern Belle, right, Pawleys Front
6 Porch.

7 A: That's correct. We used a list that was
8 provided to us by the Five Points merchants --
9 or I guess it's now just called The Five Points
10 Association.

11 Q: Right.

12 A: We've had a couple of meetings with them to
13 discuss these issues. They provided us with a
14 list of their members and they classified them
15 in various ways, but they have one designation
16 for bars and another designation for
17 restaurants so we use that list to designate
18 the restaurants that -- that appear as starred
19 entries on this ---

20 Q: But that's not your -- that's with the Five
21 Points Merchant's Association?

22 A: That's -- that's correct.

23 Q: That's not a legal -- there is actually no such
24 -- apparently no such thing, a legal term, a
25 bar, do you understand that?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 A: That's correct. But Five Points Association
2 does list, it has category of membership for
3 bars. There were one or two instances where
4 the data was missing so we went online and
5 verified it and then we also in a couple of
6 instances did a field observation to try to
7 make sure that this data was accurate.

8 Q: Okay. And so the establishment we're talking
9 about is the Roost, which is right here
10 (indicating), the white dot?

11 A: That's correct.

12 Q: And around the Roost is -- I think they share
13 a common wall, Group Therapy, is that correct?

14 A: That's correct.

15 Q: And they share a common wall with Five Points
16 Saloon?

17 A: That's correct.

18 Q: And then across the street is Breaker's, just
19 across Harden Street, Breaker's?

20 A: Well, there's a Breaker's Bar and Grill and
21 also very adjacent to that is Breaker's Live I
22 believe is what it's called.

23 Q: And that's just in one very small area, is that
24 correct?

25 A: That's correct.



1 Q: And when you say you live two -- two blocks
2 from the proposed location, you live two blocks
3 from all these locations, right?

4 A: That's correct. You can see Laurens Street.

5 Q: I see it right here (indicating).

6 A: See the railroad tracks?

7 Q: Uh-huh.

8 A: You see Laurens Street right up from that and
9 my house is not shown on this map, but it's --
10 it's very close to where the -- where Laurens
11 Street veers off from that.

12 Q: Okay. So you live up in here (indicating)?

13 A: That's correct.

14 Q: And we don't have a scale on here, but you're
15 telling me that what you would do is drive down
16 Greene Street and up Laurens Street, but as the
17 -- as the crow flies, well, it -- I mean this
18 -- this is more than two blocks, probably three
19 or four blocks by car, but as the crow flies a
20 couple of blocks?

21 A: Yes.

22 Q: And as a matter of fact, you don't have to fly
23 as a crow, you can go right up here
24 (indicating) and there's a crossing, a walking
25 crossing that comes down across the railroad



1 tracks and comes out basically at Green and
2 Harden, right?

3 A: That's correct. We call it the cut through.
4 It's where years ago the city closed off part
5 of College Street and so the neighborhood got
6 together and tried to and we -- we've
7 undertaken some efforts to beautify that park.
8 And, in fact, we've had some students from
9 Carolina come help us tend to the park so
10 that's one of the positive things about living
11 in our neighborhood.

12 Q: And that -- and that half that runs -- it runs
13 about from here (indicating) straight down
14 there, does it not? Down to -- down to -- to,
15 what is this street College (indicating)?

16 A: It should be that, which street are you
17 pointing to?

18 Q: Where the -- where the crossing -- you live up
19 here (indicating).

20 A: Oh, it's -- it's where College -- College dead
21 ends at Laurens Street.

22 Q: Right.

23 A: And a portion of it was closed many years ago
24 and it's a -- it's a walkway down to Five
25 Points.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: Right. And it's right behind the Cellar on
2 Greene and Mr. Friendly's. If you go past them
3 and there's like the ---

4 A: That's correct. It probably comes in close to
5 that corner ---

6 Q: Right here (indicating)?

7 A: --- of the pink.

8 Q: Right.

9 A: Yes.

10 Q: So it comes down from Laurens Street, crosses
11 over, there's a pedestrian path that goes all
12 the way down and on -- and runs into Harden
13 Street, is that correct? Right at the Harden
14 Street and College Street, there's a gas
15 station there?

16 A: Yeah. Yeah, I think you've got the angle
17 wrong. It comes in just on the other side of
18 Pawley's Front Porch.

19 Q: Okay. So it ---

20 A: So you ---

21 Q: --- comes in ---

22 A: Just see Pawley's Front Porch at the top?

23 Q: Right.

24 A: Yeah.

25 Q: Well, does Pawley's Front Porch and then isn't



1 there a gas station right here?

2 A: That's correct. That ---

3 Q: So it runs in here ---

4 A: I -- I think ---

5 Q: --- it comes in right here?

6 A: --- correct, it comes in ---

7 Q: Comes in right here.

8 A: --- just on the other side, no, the other side
9 of Pawley's.

10 Q: Other side of Pawley's?

11 A: Yeah.

12 Q: Okay. I'm having a senior moment I thought it
13 came in on this side of Pauley's, but I'll --
14 it doesn't make that much difference, there's
15 so many ---

16 **THE COURT:** Well, it should comes in beside the ---

17 A: Chick-fil-A.

18 **THE COURT:** --- beside the Chick-fil-A.

19 A: Chick-fil-A, yeah.

20 Q: Chick-fil-A and gas station?

21 A: Right. And then Pawley's.

22 Q: And then Pawley's, you're right. And then
23 across the street from that or when you -- you
24 come in right, yeah, you come, it comes in
25 right about here (indicating) and goes right



1 down here (indicating), is that right?

2 A: That's correct.

3 Q: Okay. And so anyone walking to and from the
4 University would come, the quickest way to get
5 back up to the University is to come up here
6 (indicating) and take that pedestrian path
7 (indicating) which dumps them right into your
8 neighborhood, is that right?

9 A: Yes. They -- they use Green Street and they
10 also use what we call the cut through, that
11 pedestrian path.

12 Q: Right. So they either come up Green Street or
13 they can do the cut through?

14 A: Yes.

15 Q: And they come through your -- your
16 neighborhood?

17 A: Yes.

18 Q: Now -- and this shows the yellow dots are
19 places that serve liquor, right? They have a
20 license to serve liquor, the yellow spots?

21 A: Liquor, beer and wine ---

22 Q: Right.

23 A: --- and all night long.

24 Q: And all night long, correct?

25 A: That's correct.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: That is that they can get a license from the
2 City to serve beer and wine after 2:00 until
3 the sun comes up?

4 A: Yes.

5 Q: Okay. So under their ABC License they've got
6 to shut down at 2:00, but the City gives a
7 license for beer and wine although recently
8 weren't a number of those establishments ticked
9 for serving liquor after 2:00?

10 A: That's what I understand.

11 Q: Okay. Now ---

12 A: And the list of all night bars, the city
13 provided us with a list of those all night bars
14 and that list was at the end of last year so we
15 -- we do not show the Roost as having an all
16 night permit, but it's my understanding that
17 the Roost has got their all night permit and
18 I'm sure Mr. Montgomery will correct me if I'm
19 wrong.

20 Q: Well, we'll stipulate they have one. They have
21 a post 2:00 a.m. beer and wine license. I
22 think Mr. Bland testified to that.

23 **THE COURT:** Uh-huh.

24 **MR. HARPOOTLIAN:** Okay. I have another map I want
25 to show you. Okay. Let me have this marked



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Number?

2 **COURT REPORTER:** 5.

3 **MR. HARPOOTLIAN:** 5. And the other one was offered
4 into evidence without objection as I understand
5 it.

6 **THE COURT:** Yeah, we admitted Number 4.

7 **MR. MONTGOMERY:** It was, Your Honor.

8 **MR. HARPOOTLIAN:** Okay. And this would be Number 5
9 marked for ID.

10 **Q:** Can you tell me what this is?

11 **A:** This is a map that I pulled from the City of
12 Columbia's website and it shows the
13 neighborhoods which are designated as historic
14 preservation neighborhoods, you can also see
15 Five Points is almost -- it's sort of just
16 below the center of this map and you can see
17 they have split it into upper Five Points,
18 overlay district, Lower Five Points overlay
19 district and then you can see the neighborhoods
20 surrounding that, you can also see -- you can
21 see the University as well. So this gives you
22 some idea of the residential neighborhoods that
23 surround Five Points.

24 **Q:** Okay. Wait one second.

25 **MR. HARPOOTLIAN:** Any objections?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 **MR. MONTGOMERY:** Are you going to admit it now or is
2 she ---

3 **MR. HARPOOTLIAN:** Well, that's what I'm saying. I'm
4 saying do you object or do I need to go
5 further?

6 **MR. MONTGOMERY:** At this point I don't understand
7 what the relevance of this document is, so.

8 **MR. HARPOOTLIAN:** Well, the relevance is this shows
9 the neighborhoods that surround Five Points
10 including her neighborhood and you're going to
11 hear from other folks about the impact of it on
12 other -- other parts of the neighborhood.

13 **MR. MONTGOMERY:** I don't know that it's been moved
14 into evidence yet, but I don't have an
15 objection to it.

16 **MR. HARPOOTLIAN:** Okay. I'll offer it into
17 evidence, Your Honor.

18 **THE COURT:** Any objections?

19 **MS. SHIELDS:** I don't have any objection.

20 **MR. HARPOOTLIAN:** Oh, I'm sorry.

21 **THE COURT:** All right. Intervenor's 5 is admitted.
22 (Intervenor's Exhibit Number 5 was marked and
23 admitted for identification purposes.)

24 **MR. HARPOOTLIAN:** I -- I apologize to the Department
25 you once again. So mark it as -- and do you



1 need to do anything?

2 **THE WITNESS:** Huh-uh.

3 **MR. HARPOOTLIAN:** No, not you, him.

4 **COURT REPORTER:** No, sir.

5 **MR. HARPOOTLIAN:** Okay.

6 Q: So let's -- let's look at this. You've got the
7 Upper Five Points overlay and the overlay
8 District. Let's -- let's try to find where you
9 live on this map. If you could put -- you got
10 a pen, no?

11 A: No, I do not.

12 Q: I'll get you one. Purple works great. How
13 about put a little X on here where you live.
14 It's small, I'm sorry.

15 A: Yeah, it is, sorry.

16 Q: It's too big to have blown up on a -- let me
17 just -

18 **THE COURT:** You can use the document reader over
19 there if you'd like.

20 **MR. HARPOOTLIAN:** Really? Okay. Let me ---

21 **THE COURT:** Turn the light on. If you just set it
22 on the -- on the surface, it'll show up on all
23 the screens.

24 A: Right. I've marked it.

25 Q: Okay. You marked it. I'm gonna use my finger



1 and show where I think it is and you correct
2 me. This is ---

3 **THE COURT:** Isn't it like magic?

4 **MR. HARPOOTLIAN:** It is like magic.

5 **THE COURT:** I love that thing.

6 **MR. HARPOOTLIAN:** You don't have to do poster board.

7 Oh, my God. This is amazing. Look at that.
8 Okay. Now, it's got to get close enough for me
9 to actually see it.

10 Q: Okay. So let's go to the Five Points part of
11 it.

12 A: If you look at the part marked Five Points,
13 it's got Orange Cross Hatching.

14 **MR. HARPOOTLIAN:** Okay. I'm trying to get -- I'm
15 trying to get -- I wish there was some way to
16 -- oh, I know. You can focus it over here,
17 right?

18 **THE COURT:** Yeah. And also, Ms. Lucas, if you would
19 like, on your screen there ---

20 A: Uh-huh..

21 **THE COURT:** --- if you -- I believe if you tap your
22 screen you can -- you see what I just did
23 there? You can make a mark on it.

24 A: Oh.

25 **MR. HARPOOTLIAN:** Really?



1 THE COURT: How about that?

2 MR. HARPOOTLIAN: That's amazing.

3 THE COURT: It's a pretty cool thing.

4 MR. HARPOOTLIAN: It is cool.

5 THE COURT: So she can mark where ---

6 Q: Well, see if you can mark where you live, that
7 would help. I see Green Street.

8 A: I --- I put an -- I put a mark on it.

9 Q: On here?

10 A: It's hard to show up, it's a -- an aqua color.

11 THE COURT: It's a little ---

12 MR. HARPOOTLIAN: Do you see it, Judge?

13 THE COURT: --- plus mark. Yes.

14 MR. HARPOOTLIAN: You do? Okay. If I'm looking at
15 the -- the bubble that says University DP,
16 where's it compared to that?

17 THE COURT: Just to the ---

18 A: It's to the right. Look at -- find the
19 railroad tracks.

20 Q: Okay. That got the railroad tracks.

21 A: Railroad tracks and then look at the orange --
22 there you go -- well, it's a little bit -- a
23 little bit down the ---

24 THE COURT: Look at -

25 MR. HARPOOTLIAN: Okay. Okay. Okay. I got it.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Okay.

2 A: It ---

3 Q: Got it. I see it now. So -- and could you
4 give me a mark where the Roost is?

5 A: Well, I mean, let's -- let's -- there's my
6 house.

7 Q: Okay.

8 A: I just marked it. Do you see it?

9 Q: Yeah.

10 A: And the Roost, very difficult, hang on a
11 second, maybe I can find it on the hard copy.

12 **MR. HARPOOTLIAN:** Can we make it bigger? Any way to
13 -- how do you make it bigger? Do I do this?

14 **THE COURT:** Might be at those buttons. There you
15 go.

16 **MR. HARPOOTLIAN:** Oh, yeah.

17 Q: Okay. That help?

18 A: That definitely helps.

19 Q: Okay.

20 A: So once again my house is right there.

21 Q: Okay. And your ---

22 A: So the little pencil ---

23 Q: Okay. And where is the Roost?

24 A: The Roost is just down ---

25 Q: Is it right here (indicating)?



- 1 A: --- it's hard to see, but it's right ---
- 2 Q: Isn't it right there (indicating)?
- 3 A: --- in there (indicating).
- 4 Q: Yeah. Okay.
- 5 A: Yeah. Right in there, right at ---
- 6 Q: Okay.
- 7 A: --- Harden and Green.
- 8 Q: Okay. Now, the neighborhood ---
- 9 A: It's down -- down a little bit more. I think
- 10 it's more in this intersection, just a smidgen
- 11 down.
- 12 Q: Okay. That's fine. Yeah. The Green Street
- 13 and Harden Street intersection. And we just
- 14 pointed out there are four -- or no, I'm sorry,
- 15 there are five different, including the Roost,
- 16 five different bars as we call them in that one
- 17 little area right there, is that correct?
- 18 A: There are five bars and ---
- 19 Q: There's Breaker's, Breaker's whatever it is ---
- 20 A: Breaker's Live, Breaker's Bar and Grill, the
- 21 Roost, Group Therapy, Five Points Saloon and
- 22 then there are several restaurants ---
- 23 Q: Well, I'm talking about how many bars, places
- 24 ---
- 25 A: Bars?



1 Q: Yeah. Five.

2 A: As in -- five.

3 Q: Okay. Including the Roost?

4 A: Yes.

5 Q: Okay. Now, the neighborhoods and this gives us
6 some idea of the neighborhoods, your
7 neighborhood is -- we can see where that is and
8 then once you cross Blossom Street, that would
9 be -- if you went down Devine Street and
10 crossed Blossom Street up to the -- up to the
11 bottom of this would be Wale's Gardens, beyond
12 that would be Hollywood Rose Hill, to the right
13 of that would be Shandon, Old Shandon, Waverly
14 and then above that would be -- well, it was
15 Martin Luther King, which is that showing up
16 here?

17 A: Yes. Martin Luther King is in, an historic,
18 has historic designation and is right behind
19 Five Points.

20 Q: Is it on here? No, it's not. It's ---

21 A: I believe it's listed as part of -- it's
22 probably part of Old Shandon.

23 Q: Old Shandon. Okay.

24 A: Yeah.

25 Q: So those are the neighborhoods that are in



1 proximity, that touch on Five Points, right?

2 A: That's correct.

3 Q: And where these five bars are that are -- that
4 is very close to the University Hill where you
5 live, the University neighborhood, correct?

6 A: We're on -- we're on the edge. We -- our --
7 our neighborhood abuts Five Points.

8 Q: Five Points. As does Martin Luther King?

9 A: Yes.

10 Q: As does Waverly?

11 A: Yes.

12 Q: And ---

13 A: And Shandon.

14 Q: Pardon me?

15 A: Shandon as well.

16 Q: Shandon does and does Wale's Gardens?

17 A: Yes.

18 Q: Matter of fact, it was a neighborhood outrage
19 over the attempt to put a restaurant that
20 served 50 different hurricane alcohol drinks
21 where the old Master Cleaners was?

22 A: That was the subject of a great deal of
23 discussion at the Five Points Coalition
24 meetings.

25 Q: And the -- the Columbia Planning Commission



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 turned them down, is that correct?

2 A: It's my understanding, yes.

3 Q: Okay. But massive show up, everyone was upset
4 because that meant alcohol was going to cross
5 Blossom Street and enter into the
6 neighborhoods, right?

7 A: That's correct.

8 Q: Now, while there's no retail alcohol
9 establishment on -- I live up in Wale's Garden,
10 on our side of Blossom Street we can see there
11 are a number of retail, when I say retail,
12 alcohol I'm talking about places like the Roost
13 and they testified they had 6 to 10 percent
14 food sales, 90 percent would be something
15 alcohol. While there is no bars in your
16 neighborhood I want you to tell the court a
17 little bit about -- first of all ten years ago
18 did your neighborhood have any problem with
19 intoxicated kids, university kids or intox -
20 any crime of any sort, I mean related to
21 alcohol?

22 A: Well, we did, but it has intensified greatly
23 over the last ten years or so. We -- we now
24 frequently get intoxicated pedestrians are
25 roaming through our neighborhoods at all hours.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 We call it the, in some cases some people call
2 it the Capstone fire drill, about 10:30 on a
3 Thursday night is when it starts and so they
4 make noise on the way down to Five Points and
5 they make noise coming back at all hours of the
6 night and ---

7 Q: Any vandalism?

8 A: Lots of vandalism and I don't mean just, you
9 know, just turning, tipping over a trash
10 receptacle this is serious vandalism. For
11 instance the neighborhood across the street
12 somebody in the middle of the night picked up
13 a cement urn and crashed it on the roof of
14 their car breaking in the roof and the back
15 windshield.

16 Q: Did they steal anything or was that just an act
17 of vandalism?

18 A: That was an act of vandalism. I mean it's, you
19 know, in terms of what happens in the middle of
20 the night that's usually what it is, it's some
21 kind of vandalism, littering, public urination,
22 but I mean if they, if that was it we'd be
23 okay, but it's the serious that's troublesome
24 to us and also sometimes we're fearful for the
25 -- for the kids because I mean, you, you'll



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 hear them shouting, maybe they're angry with
2 each other, but you don't know if somebody's
3 being attacked so you wake up in the middle of
4 the night and now you're afraid that if you
5 don't go check this out, you know, you may be
6 letting somebody suffer a serious assault.

7 Q: And let me stop you right here. You're not
8 alleging that the Roost has generated any of
9 that alcohol related vandalism or noise or
10 crime?

11 A: I would have no way of knowing.

12 Q: But you're not saying they did.

13 A: I'm not saying that they did.

14 Q: Okay. Now, is the -- is the -- the number of
15 your perception, the number of retail
16 establishments that have close and been
17 replaced by bars is that significant over the
18 last ten years?

19 A: I don't have data, but I, you know, I am aware

20 ---

21 Q: I mean just your observation.

22 A: Well, just -- we know the Parthenon for
23 instance is ---

24 Q: On Harden Street?

25 A: --- that used to be a restaurant it's now the



1 Thirsty Parrot which is classified by the Five
2 Points Association as a bar, the Peddler
3 Steakhouse is now, I mean it's gone several
4 owners -- several owners, but I believe that's
5 now, I think it's Latitude 22, Frank's Hot
6 Dogs, he used to be -- I mean it used -- I used
7 to take my small child in there, we'd go in
8 there and get hot dogs and enjoy, you know, it
9 was a little bit of a dinner kind of place, but
10 it is now the Roost and ---

11 Q: It was before that ---

12 A: --- and before that ---

13 Q: --- the Pour House.

14 A: --- it was the Pour House so ---

15 Q: Now, there's always been some college bars in
16 Five Points, correct?

17 A: Well, not so much when I was in college, but
18 that's been many years ago, but ---

19 Q: Right. But in the last ten, ten years ago,
20 there were some bars.

21 A: Since -- since I have lived in the neighborhood
22 there have always been some alcohol outlets in
23 Five Points.

24 Q: Sure. Are you asking this court to deny, I
25 mean there are a number of reason that they can



1 deny the permit, but is there in your opinion,
2 just living there, based on your life
3 experience, the neighborhood over the last ten
4 years with the increase in the number of
5 alcohol outlets has there been an increase both
6 -- well, let me rephrase that, with the
7 increase in the number of alcohol outlet has
8 there been a decrease in the quality of life in
9 your neighborhood?

10 A: Very much a decrease in the quality of life in
11 our neighborhoods and to the point where we
12 think that this is a public nuisance, an
13 attractive nuisance if you will because, I mean
14 just like a, you can't tell a toddler, you
15 know, don't go jump in the swimming pool you
16 might drown I mean they -- they don't
17 understand that and so nowadays people put up
18 fences and walls around their swimming well,
19 this concentration of bars down in Five Points
20 is an attractive nuisance to the students who
21 live up in -- in the University. I'm here
22 because we need help, we need somebody to
23 straighten out this mess, we need some adult
24 supervision if you will and it's not so much --
25 I mean these -- these fellows seem like



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 pleasant fellows, I went down to their open
2 house and spoke with them. The problem is the
3 over concentration of alcohol outlets, the long
4 hours that they keep, the fact that they're
5 targeting students, we have the spillover that
6 if this were all concentrated in Five Points
7 you could stay out of Five Points at night and
8 not worry about it, but it's spilling over into
9 our neighborhood, we're turning these students
10 into perpetrators because they're -- we're
11 scoff laws. They, you know, they -- they're
12 learning to use fake ID's, which is breaking
13 the law, underage drinking, breaking the law,
14 open containers, which I -- I get the evidence
15 because they're beer bottles and things like
16 that all up and down the street, in my yard, in
17 my shrubbery, you know, that means somebody has
18 been drinking ---

19 Q: Well, let me ask you this. When there was less
20 of a concentration of bars in Five Points ten
21 years ago, did you have this, these kinds of
22 problems?

23 A: No, we did not?

24 Q: Okay. So the increase in the number of bars
25 has dramatically decreased the quality of life



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 in your neighborhood?

2 A: Absolutely.

3 Q: Now -- and again, you're not alleging that
4 single beer can or beer bottle or whatever came
5 from the Roost over the last, since December,
6 January and February in the last 60 to 90 days,
7 are you?

8 A: I am not alleging that. I'm alleging that the
9 location of these bars is close proximity to
10 other bars. It's in close proximity to
11 vulnerable young people, it's in close
12 proximity to our neighborhoods which are
13 residential neighborhoods.

14 Q: So you are opposing their license as a
15 protestor ---

16 A: That's correct.

17 Q: --- because of the number of bars already
18 there?

19 A: That's one reason, yes.

20 Q: And that -- that adding another bar, no matter
21 how well run, will exacerbate the problem?

22 A: Yes.

23 Q: Has your car ever been sideswiped?

24 A: Five times.

25 Q: Five?



- 1 A: I -- I don't know it was in the middle of the
2 night, a couple of times have said, Yes, I did
3 this, I'll pay, but ---
- 4 Q: Kids?
- 5 A: --- for the most part, yes, students.
- 6 Q: Inebriated?
- 7 A: Yes.
- 8 Q: Five times?
- 9 A: Five times.
- 10 Q: In the last 10 years?
- 11 A: Yeah, maybe 10 to 15 years, yeah.
- 12 Q: Okay. By inebriated students?
- 13 A: Yes.
- 14 Q: And you're asking this Judge to deny a
15 petition, the applicant, right?
- 16 A: That's correct.
- 17 Q: Now, in the process of this application did
18 SLED come by and see you and interview you or
19 interview anybody in your neighborhood?
- 20 A: They did not.
- 21 Q: Did the Department Of Revenue ask for any
22 neighborhood input?
- 23 A: No.
- 24 Q: Has anyone who has the authority to grant the
25 temporary license which the DOR has or anyone

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 that would examine the premises, has anyone
2 ever talked to you about the concentration of
3 alcohol outlets in that neighborhood, in that
4 area?

5 A: No regulatory authority.

6 Q: Okay. So the first time that you've had an
7 opportunity to express this is here today?

8 A: That's correct. We have also approached the
9 City on some regulatory matters, but we
10 approached them.

11 Q: And that regulatory matter would be the 2:00
12 a.m. licenses they give out?

13 A: That's correct.

14 Q: But if this license is not granted they can't
15 be open at 2:00 a.m. because you have to have
16 a alcohol license and that's only beer and
17 wine, right?

18 A: That's correct.

19 Q: Beg the Court's -- thank you. Answer any
20 questions Mr. Montgomery might have.

21 **MS. LUCAS - CROSS-EXAMINATION BY MR. MONTGOMERY:**

22 Q: May it please the Court. Ms. Lucas, how are
23 you today?

24 A: I'm fine.

25 Q: Good. You practice law -- you practice law and



1 one of the things you worked on when you
2 practiced law is economic development, wasn't
3 it?

4 A: I did.

5 Q: And part of economic development is trying to
6 have good businesses and good places that help
7 the community, isn't it?

8 A: That's correct.

9 Q: And so if you want to improve the way
10 businesses are run you do that by putting
11 better run businesses in place, don't you?

12 A: You try to put in place businesses that fit the
13 community.

14 Q: Right.. You moved, you said 31 years you've
15 been in your current home on Laurens Street?

16 A: Yes.

17 Q: So you moved there I guess in 1987, sound about
18 right?

19 A: Yes.

20 Q: And in 1987 what was located at 800 Harden
21 Street?

22 A: Frank's Hot Dog's.

23 Q: And Frank's Hot Dog's served beer and wine and
24 alcohol, did they not?

25 **MR. HARPOOTLIAN:** Object ---



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 A: I -- I never ordered that so I don't know the
2 answer.

3 Q: Okay. So you don't know and you haven't made
4 any effort to inquire as to whether there was
5 an alcoholic beverage license at that site at
6 that point in time?

7 A: I used to take my five year old in there for
8 hot dogs.

9 Q: Okay. Now, have you and you've given some
10 testimony, you testified most recently you had
11 some times where your car had been sideswiped,
12 when did that occur?

13 A: You know, it's been over a period of 10 maybe
14 as long as 15 years, you know, there wasn't a
15 sudden state of sideswipes if you will, there
16 were, you know, there was just intersperse
17 during that time frame. It has not been
18 sideswiped in about three or four years.

19 Q: Okay. Safer drivers?

20 A: Well, I hope so.

21 Q: Now, when you talk about the -- what you've
22 described as the proliferation or the increase
23 in establishments that serve alcohol in Five
24 Points. Do you have any data as to when those
25 establishments had been added in your testimony



1 or do you just have this general idea that
2 establishments have been added?

3 A: I don't have any data. I did look at the
4 Department Of Revenue database to see if I
5 could take a snapshot say 10 years ago or 15
6 years ago and I -- I could not locate that
7 information in their database. So this is from
8 living in the neighborhood you're aware of when
9 businesses closed, I can think -- I just sat
10 down the other day and listed 22 right off the
11 top of my head, 22 retail establishments that
12 I patronized that have closed and in some cases
13 they're now bars and, you know, I gave you
14 those examples those are the only ones I know
15 that were converted to bars, but I do believe
16 -- I do believe that we have more bars today
17 than we did 10 years ago or 15 years ago.

18 Q: And the two places you referred to is the
19 Parthenon, which was an alcohol outlet ---

20 A: Yes, it was.

21 Q: --- before?

22 A: But it was a restaurant.

23 Q: And what was the other one?

24 A: I think the Peddler Steakhouse ---

25 Q: Okay.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 A: --- was a restaurant and it is now, I believe
2 that's Latitude 22.

3 Q: It was an alcohol outlet as well?

4 A: Which is downstairs from the other bar owned by
5 these gentlemen.

6 Q: That was an alcohol outlet as well?

7 A: Yes. But we've distinguished, we tried to
8 distinguish, even though the law doesn't allow
9 bars in South Carolina I think there's a big
10 difference in -- in a restaurant and a bar and
11 the law doesn't have a very good definition,
12 but when you've only got 10 percent of your
13 revenue coming from 5 or 10 percent of your
14 revenue coming from food and the rest of it's
15 coming from alcohol, to me that's not a
16 restaurant. I mean just because you can order
17 some hot dogs or nacho's or a pizza, that's not
18 enough, there are pizza restaurants that also
19 serve alcohol, but there is a difference when
20 you're looking at the -- the level of revenues
21 that come and the, also the hours of operation.

22 Q: When you went to Frank's Hot Dogs they served
23 hot dogs, right?

24 A: They did.

25 Q: I don't think they served anything else, did



1 they?

2 A: Not to my knowledge.

3 Q: Okay. Now -- and I just want to make sure I,
4 for -- for the record maybe I could be a little
5 more precise on the location in your residence.
6 May I ask the court report if he'd mark this
7 for me.

8 **MR. HARPOOTLIAN:** You want to put it on the overhead
9 thing?

10 **MR. MONTGOMERY:** After I get it marked I'll do that.

11 **MR. HARPOOTLIAN:** What is it? Oh, I see. We don't
12 object if we put it on the overhead.

13 **MR. MONTGOMERY:** Okay.

14 Q: I'm going to give you this, but I'll put it on
15 the overhead ---

16 A: Okay.

17 Q: --- as well. This is just a Google map of --
18 of the location of your residence and I just
19 want to make sure ---

20 **THE COURT:** What's the number of yours marked with?

21 **MR. MONTGOMERY:** Your Honor, it is marked -

22 **COURT REPORTER:** I haven't -- I haven't marked it
23 yet.

24 **MR. MONTGOMERY:** I'm sorry. Your Honor, I took it
25 before it got stickers on it. It's



1 Petitioner's 4.

2 **THE COURT:** Thank you.

3 **(Petitioner's Exhibit Number 4 was marked for**
4 **identification purposes.)**

5 Q: And this would be a map that shows your
6 residence at 911 Laurens Street and 800 Harden
7 Street, is that correct?

8 A: Yes.

9 Q: And that shows the different ways you can walk
10 there from your house to 800 Harden Street,
11 doesn't it?

12 A: Yes.

13 Q: And it has the dotted one shows the cut through
14 says six minutes, .2 miles, right?

15 A: Six minutes sounds right, I'm not sure about
16 the measurement, but yeah, that sounds right.

17 Q: And then it has another route that goes down
18 and so seven minutes .3 and then if you go down
19 Laurens to Greene it says seven minutes .3,
20 right?

21 A: That's probably about right.

22 Q: Okay. And you also have, owned another house
23 on Laurens Street as well didn't you?

24 A: Yes.

25 Q: And I believe you sold that house in 2013



1 around five years ago ---

2 A: That sounds right.

3 Q: --- a little less than five years ago?

4 A: Yeah.

5 Q: And when you sold that house did you tell the
6 person that you sold the house to or did you
7 put in the listing anything about, you know, we
8 have these concerns about problems with bars or
9 anything in Five Points?

10 A: I -- I doubt it.

11 Q: And in fact you probably told them how it was
12 in close proximity to Five Points and close
13 proximity to the University didn't you?

14 A: I -- the purchaser, one of the purchaser's was
15 being employed as a faculty member at the
16 University so he was very familiar and wanted
17 to be close to the University.

18 Q: And I -- I think you and your husband bought
19 that house in 2004 and sold it in 2013, is that
20 right?

21 A: Yes. We substantially renovated the house.

22 Q: Okay.

23 A: We reconverted it from multifamily to single
24 family.

25 Q: But it still had an apartment in it too, didn't



1 it?

2 A: It did. We -- we would have had to -- that
3 apartment was a downstairs kind of a basement
4 apartment, it was not a -- it was not up to
5 code, so to do anything to that apartment it
6 would have been dreadfully expensive so we had
7 to leave it.

8 Q: Okay. And, in fact, do you know there are
9 houses on your street for sale right now,
10 aren't there?

11 A: Yes.

12 Q: And they're all selling at, I guess, what, from
13 -- from my perspective, seem to be premium
14 prices, aren't they?

15 A: A lot of people were -- became underwater with
16 their homes in our neighborhood due to the
17 great recession, and I've had friends who tried
18 to sell their house and -- they're very
19 concerned. They asked me, Oh, don't say
20 anything about Five Points, it's got a bad
21 reputation, I'm having trouble selling my house
22 and the houses in our neighborhood take a very
23 long time to sell, they sit on the market.

24 Q: Okay. I'm going to just ask that that be
25 stricken, it's non-responsive and hearsay.



1 **MR. HARPOOTLIAN:** Objection, Your Honor. I would
2 object. That's responsive. She -- he's been
3 asking her all these questions about, oh, this
4 hadn't affected the price of your house and she
5 finally answered his question. That's all that
6 is.

7 **THE COURT:** Yeah. I think that's a fair answer to
8 the question that you're asking.

9 **MR. HARPOOTLIAN:** Thank you, Your Honor.

10 **MR. MONTGOMERY:** Thank you, Your Honor.

11 A: And we did lose money of the sale of the house
12 across the street.

13 Q: Okay. Now, in the time you've been in Five
14 Points, have you ever protested any other
15 establishment?

16 A: I have not.

17 Q: Why'd you decide on this one?

18 A: You wake up to -- that's not a pun actually.
19 I wake up all night long due to noise and so
20 forth, but you have certain wake up calls and
21 we didn't, I mean, we -- there -- there are all
22 kinds of urban issues with where we live, but
23 life is pretty good. We've got parks, we can
24 -- we can walk our dogs, it's a dog friendly
25 neighborhood so great place to live, but then



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 we noticed that we were getting this spillover
2 effect, I mean this was maybe 15 years ago, but
3 somebody was murdered on the corner two doors
4 down from me, okay, an Assistant U.S.
5 Attorney, his -- his colleague was shot, a
6 little while after that somebody was shot down
7 in Five Points, they ran up though the cut
8 through and died on the same street corner.
9 Now, that was my first wake up call like what's
10 going one, wait a minute, this is now coming up
11 into our neighborhood and since then we have
12 seen increased pedestrian traffic coming from
13 the University to and from Five Points, we've
14 seen increased nuisances from noise, from
15 litter, from vandalism, public urination, I
16 mean if you look on the books all of those
17 things are considered nuisances and it's gotten
18 much more intense, if you get two neighbors
19 together the chances are they're going to be
20 talking about all the problems, you know, with
21 -- with the noise, the nuisances, the bars,
22 etcetera, etcetera. I used to think it was our
23 neighborhood, but when I joined that coalition
24 I realized oh, my goodness, Martin Luther King
25 Neighborhood probably has it worse than us and

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 the final wake up call was one night probably
2 two years ago, something like that, in the
3 middle of the night 2:30 or so somebody's
4 pounding on our door, we're telling him he's
5 got the wrong house, this Pour kid was so blind
6 drunk he didn't know where he was, he looks at
7 my husband and he thinks he's, my husband's
8 name is, you know, the name of his friend. You
9 couldn't reason with him, he was blackout
10 drunk, but somehow still walking, we finally
11 call the police, not to get him in trouble, but
12 to get him safely home somewhere. That is a
13 common occurrence, we have people crawl over
14 the fence, my next door neighbor has a swimming
15 pool, we were kind of watching the house for
16 them, some drunk kid crawled over a wall then
17 crawled over another wall in February and
18 managed to fall in that swimming pool, climbs
19 out of the swimming pool, goes through the
20 service yard and kicks over the -- the
21 sprinkler system. It's February, it's freezing
22 cold, he could have died, these kids are such
23 -- being preyed upon, they're subject to
24 problems with accidents, we have one student,
25 I, you know, I -- every time I go through the

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 cut through when I'm coming back up I see a
2 little cross there where a young man completely
3 drunk 2:00, 2:30 in the morning tried to caught
4 -- the train was stopped, two of his friends
5 crawled -- crawled through between two -- two
6 cars; he was the third one, he tried to do the
7 same thing and the train started to move, that
8 young man lost his leg and he lost his life.
9 So it's more than just a nuisance as far as I'm
10 concerned, this is a health and safety not only
11 for us as residence, but also for these Pour
12 vulnerable kids who were enticed to come down
13 there for the bars. So when we went for the
14 open house I told your clients, I said look,
15 change your business plan, turn this into a
16 nice little café or little restaurant, I'd be
17 pleased to come down there and patronize your
18 place, be happy to, their response we can't
19 afford to do that at these rents, the only
20 thing we can do is operate as a bar so that's
21 why I'm here today.

22 Q: But you protested before you talked to them?

23 A: Yes, I had, I had done that.

24 Q: And -- and you'd also agree that none of what
25 you described has occurred at their -- as a



1 result of anything they've done.

2 A: I have no way of knowing, you know, who -- who,
3 which bars these students are attending.

4 Q: Well, you agree with me, none of this has
5 occurred -- that you've described has occurred
6 since December of 2017?

7 A: Well, sure we have had some vandalism, yeah.
8 I mean my neighbor had his car dented just last
9 week by some kid literally doing a body roll
10 over the car and so there's a huge dent, it's
11 probably, you know, 18 inches wide.

12 Q: Do you know that other bars in the city have
13 similar problems where there aren't bars as you
14 described?

15 A: I have not studied other areas of the city, you
16 know, I've paid a lot of attention to Five
17 Points because of, because I live there and
18 because Five Points is my commercial district
19 too, it -- it, you know, I patronize those
20 shops and those stores. If the quality of life
21 in Five Points deteriorates it impacts us.

22 Q: Okay. You don't have any specific information
23 and I'm just confirming what Mr. Harpootlian
24 said in relation to this location at all?

25 A: You mean ---



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 MR. HARPOOTLIAN: Your Honor ---

2 Q: As it relates ---

3 A: --- 800 Harden Street?

4 Q: Yes, ma'am.

5 A: No, I don't.

6 Q: Okay.

7 MR. HARPOOTLIAN: At current -

8 MR. MONTGOMERY: Yeah.

9 MR. HARPOOTLIAN: --- since they took over.

10 MR. MONTGOMERY: Yes.

11 MR. HARPOOTLIAN: Not before, not when it was the
12 Pour House, right? Is that what we're talking
13 about?

14 MR. MONTGOMERY: That's -

15 MR. HARPOOTLIAN: Okay.

16 MR. MONTGOMERY: This location, these people.

17 MR. HARPOOTLIAN: These people, this location, not
18 the Pour House, okay.

19 Q: And has any other group operating any
20 establishment in Five Points reached out to the
21 community, sent letters out, tried to solicit
22 community's input into their business?

23 A: Well, through the Five Points Association we
24 were asked to meet with, we met with them a
25 couple of times, very recently, I mean I think



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 in the past it's been even more frequent, but
2 in -- in, since the first of the year we've met
3 with Five Points Association twice, the second
4 was at their request that we come meet with Mr.
5 John Sayers who owns four bars in Five Points,
6 Pavlov's, Jake's, Bird Dog and the Cotton Gin
7 so to that extent, yes I mean they, he did
8 reach out to -- to have discussions with the
9 neighborhoods. We -- we reached out to them
10 first and then this was their response to come
11 sit down and talk with one of the bar owners
12 who also happens to be the Vice President of
13 that neighborhood, of that Five Points
14 Association.

15 Q: That was after you met with our folks?

16 A: Yes, it was.

17 Q: Okay. And now, you also -- you were involved
18 or had some involvement in the issue that I
19 read about in the newspaper involving Zaxby's
20 too, didn't you?

21 A: Not me personally, no.

22 Q: Did your neighborhood have a -- have a role in
23 that?

24 A: I don't think -- I don't -- you'll have to ask
25 Mr. Gottshall I don't think so.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: Okay.

2 **MR. HARPOOTLIAN:** Objection, Your Honor. Let me
3 clarify that. I represented a guy named
4 Richard Burkes who owns the building where
5 Starbucks is, nobody else had anything to do
6 with that. He was the opponent in front of the
7 BOSA(phonetic) and the appellant in the Circuit
8 Court, I can clarify the record on that.

9 **THE COURT:** Okay.

10 Q: I don't have anything further. Thank you.

11 **MR. HARPOOTLIAN:** Nothing further.

12 **MR. MONTGOMERY:** I mean, the department may have
13 something.

14 **MR. HARPOOTLIAN:** Oh, I apologize. I keep
15 overlooking and they're sitting right here. I
16 don't know how I do that.

17 **THE COURT:** Well, you have to step over them to get
18 up to the podium, Mr. Harpootlian.

19 **MS. SHIELDS:** Briefly, Your Honor.

20 **MS. LUCAS - CROSS-EXAMINATION BY MR. SHIELDS:**

21 Q: Ms. Lucas, you testified earlier that the
22 Department -- that no one from the Department
23 came and spoke to you when we received these
24 applications or when we granted the temporary
25 license, right?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 A: That's correct.

2 Q: Okay. DOR's not required to talk to neighbors
3 when we get new application, are we?

4 A: Not to my knowledge. In fact, I asked for
5 copies of the application -- no. I asked for
6 copies of the other protests which were filed
7 and I was told that no, I would have to submit
8 a FOIA request for that.

9 Q: Did you submit a FOIA?

10 A: No, I did not.

11 Q: Okay. But is it, was it your understanding
12 that we would have complied had you submitted
13 a FOIA?

14 A: Yes. I would expect you to comply with the
15 law.

16 Q: Okay. I don't have any other questions.

17 **THE COURT:** Okay. Mr. Harpootlian?

18 **MR. HARPOOTLIAN:** Nothing further.

19 **THE COURT:** Okay. You can step down, Ms. Lucas.

20 Thank you.

21 **MR. HARPOOTLIAN:** William Lamb.

22 **MR. LAMB - DIRECT EXAMINATION BY MR. HARPOOTLIAN:**

23 **WILLIAM LAMB,** having been duly sworn, testifies as
24 follows:

25 Q: Okay. Mr. Lamb, you've already stated your



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 full name for the record. Tell us where you
2 live.

3 A: We live at 2020 Wheat Street.

4 Q: Okay. And I don't think that's on this map,
5 I'm trying to make sure, no. So 2020 Wheat
6 Street is where, if I'm going up Harden Street
7 ---

8 A: Uh-huh.

9 Q: --- and Wheat goes to the left towards Terrace
10 Way ---

11 A: Right.

12 Q: --- or to the right down towards Santee, which
13 side do you live on?

14 A: Go to the right.

15 Q: Okay. And what would the cross street be?

16 A: Well, we're between Harden and Waccamaw.

17 Q: Waccamaw?

18 A: Yes, sir.

19 Q: Okay. Does the court take -- do you know where
20 that is?

21 **THE COURT:** I do.

22 Q: Okay. So I won't ---

23 A: So we're -- we're very close to Five Points.

24 **MR. MONTGOMERY:** Mr. Harpootlian?

25 **MR. HARPOOTLIAN:** Oh, that's okay. I just ...



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 Q: So you're here -- are you a -- a, someone who's
2 filed an -- an objection?

3 A: Yes, I am.

4 Q: Okay. And how close to Five Points do you
5 live?

6 A: Our home is about a block away from Five
7 Points, maybe two and a half blocks away from
8 -- from the restaurant we, from the bar that
9 we're talking about.

10 Q: The Roost?

11 A: The Roost, that's correct.

12 Q: So if you go from the Roost you have to go up
13 Harden Street, you have to cross Devine, right?

14 A: To get to out our ---

15 Q: Right.

16 A: --- our house?

17 Q: Get to your house.

18 A: You just go up Harden Street and take a right
19 and you're there.

20 Q: On Wheat?

21 A: Yes, sir.

22 Q: Okay. And so you think that's three to four
23 blocks, how far?

24 A: No. About two and half from -- from the Roost
25 we're two and a half blocks, I checked it



1 yesterday.

2 **MR. MONTGOMERY:** Is there a little map on here?

3 Okay. I'm going to go ahead and offer Mr.
4 Montgomery's Exhibit into the record. Any
5 objection?

6 **MR. MONTGOMERY:** I'm not going to object except for
7 you offering it, but go ahead.

8 **MR. HARPOOTLIAN:** Okay. Can you mark this for me,
9 please?

10 **COURT REPORTER:** Yes, sir.

11 (Intervenor's Exhibit Number 6 was marked for
12 identification purposes.)

13 **MR. HARPOOTLIAN:** It's probably something I
14 apologize. Mr. Montgomery's so much more
15 technically proficient than me.

16 Q: So this is a Google Maps showing how long it
17 would take to walk from Harden to your house,
18 okay?

19 **MR. HARPOOTLIAN:** You got one I can put on the
20 overhead?

21 **MR. MONTGOMERY:** I can ---

22 **MR. HARPOOTLIAN:** That's it?

23 **MR. MONTGOMERY:** Use that one. I don't a copy of
24 that one.

25 **MR. HARPOOTLIAN:** Okay. Let me put it on the



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 overhead projector. And could we -- don't
2 write on it. Don't write on it.

3 A: Okay.

4 Q: Okay.

5 A: In fact, my house is marked right there.

6 Q: Yeah. I'm going to put it on the overhead
7 projector.

8 **THE COURT:** What number's that?

9 **MR. HARPOOTLIAN:** That would be Intervenor's Exhibit
10 Number 6.

11 Q: Okay. Here we go right here. And at the top
12 is, this is a Google Map, 800 Harden Street and
13 it shows eight minutes or nine minutes of walk
14 from Harden Street to your house, is that
15 correct?

16 A: I would say that must be a fairly slow walker,
17 but yes, that's correct.

18 Q: How about a drunk walker?

19 A: Huh?

20 Q: Drunk walker?

21 A: Well, it may take 20 minutes, I don't know,
22 we've seen some stumbling pretty bad.

23 Q: Sort of a medium stumble?

24 A: Yes. Yeah.

25 Q: Okay. That's pretty -- you walk that all the



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 time ---

2 A: I walk ---

3 Q: --- does it take you eight minutes?

4 A: I would say less than eight minutes unless
5 somebody pushes the cross-walk button at the
6 corner of Blossom and Harden which may take
7 forever to get a light, but other than that
8 walking it doesn't take that long.

9 Q: Okay. So you're here as an objector to these
10 folks getting a license. Now, let's get this
11 out of the way at the front end, do you know if
12 you have any problems, any specific problems
13 since December of this year when they received
14 their temporary license from the Roost, from
15 800 Harden Street, do you know of anybody
16 that's committed vandalism or thrown up on your
17 front lawn or done anything horrible that was
18 caused by them specifically?

19 A: No, sir. I cannot identify anything specific
20 to them.

21 Q: Okay. So we're going to talk about the general
22 conditions, but let's talk a little bit about
23 how long have you lived at that address?

24 A: 36 years.

25 Q: Okay. You raised your family there?



1 A: Yes, I did. Two children grew up there, I mean
2 they're independent living on their own.

3 Q: Okay. And your wife, is she here with you
4 today?

5 A: Yes, she is. She's ---

6 Q: Is she ---

7 A: --- back corner back there.

8 Q: She's been sitting in the corner for two days?

9 A: Yes. She's awake.

10 Q: Okay. And did she have a business in -- well,
11 first of all, what do you do for a living, or
12 what did you do for a living?

13 A: Well, I am retired. I spent 42 years with
14 South Carolina Electric and Gas Company, had
15 nothing to do with any nuclear plants.

16 Q: Is your retirement account still in SCE&G
17 stock?

18 A: No.

19 Q: Thank God.

20 A: Yes, thank God.

21 Q: Okay. So your wife, however, worked in Five
22 Points, did she not?

23 A: She owned a business in Five Points.

24 Q: Okay. Called Gibson's?

25 A: Called Gibson's on Saluda.



1 Q: And Gibson's on Saluda would have been if --
2 and right now it's an establishment -- you know
3 where Starbucks is?

4 A: Yes.

5 Q: Okay. And that brick building used to be, when
6 I was growing up, Joyful Alternative ---

7 A: Right.

8 Q: --- for those of you who can remember the '60s
9 and '70s and then the, where the Starbucks is
10 if your facing the Starbucks Gibson's would
11 have been a Sundry Drug Store?

12 A: Well ---

13 Q: I don't think they had drugs, but they had ---

14 A: --- no the original Gibson's was a drug store
15 many years ago.

16 Q: Right.

17 A: And I think whoever sold it signed a non-
18 compete clause, a year later opened another
19 business that looked like a drug store that had
20 everything but the drug counter in the back,
21 Sundry's, but ---

22 Q: And it had a -- a lunch counter?

23 A: Had a lunch counter in the back ---

24 Q: Served breakfast there?

25 A: --- for the -- for the first year or two,



1 that's -- that's correct, for the first year or
2 two ---

3 Q: I ate there many, many times ---

4 A: Yeah.

5 Q: --- when I was in law school in the '70s.

6 A: It was every day of my life til we closed the
7 restaurant too, but it was primarily a -- a
8 gift shop, gift items, anniversary, Christmas,
9 birthday, greeting cards, invitations, that
10 type of thing.

11 Q: Okay. And -- and over -- back then there
12 weren't -- I mean when I say bars do you
13 remember any specific place that was not a
14 restaurant?

15 A: I remember Donn's on Harden Street.

16 Q: Right.

17 A: Which had been there forever and I think it was
18 still there when we bought Gibson's in 1980.

19 Q: Okay.

20 A: I think Jungle Jim's ---

21 Q: Right.

22 A: --- was probably a bar ---

23 Q: Okay.

24 A: --- which was probably on Harden Street.

25 Q: Next to where the Harper's is now?



- 1 A: That's correct.
- 2 Q: Or no longer, but it was a Harper's beside it.
- 3 A: Right in that vicinity.
- 4 Q: What else?
- 5 A: And I was unable to come up with any other
- 6 places I would call a bar, there were
- 7 restaurants that they were truly restaurants
- 8 that may have sold beer and wine, but I don't
- 9 know of any other bars, there may have one or
- 10 two others, but that was about it.
- 11 Q: But -- but you think two, three, four bars 26
- 12 years ago?
- 13 A: I think so.
- 14 Q: Are there more bars than that now?
- 15 A: Oh my gosh, yes. There's -- there's the map.
- 16 Q: And you would not disagree with the map?
- 17 A: I wouldn't agree, disagree with a thing on
- 18 there.
- 19 Q: Now, in your -- the -- the Gibson's ---
- 20 A: Uh-huh.
- 21 Q: --- it sold gift cards, Christmas gifts,
- 22 stationary, your wife ran it?
- 23 A: That is correct.
- 24 Q: Y'all owned it?
- 25 A: Technically yes, I was a very minority owner,



1 it was her business.

2 Q: Y'all did not own the real estate?

3 A: No, we did not own the real estate.

4 Q: You rented it from somebody?

5 A: That's correct.

6 Q: And how long did you operate that business?

7 A: Well, we operated it at that location from 1980
8 until 2005.

9 Q: Okay. And why did you shut it down, why did
10 you move?

11 A: Five Points was changing.

12 Q: In what way?

13 A: It was becoming -- it -- it didn't have the
14 concentration of bars then that it had now, but
15 it was starting to move in that direction, it
16 was becoming obvious that the focus of the area
17 was -- was geared more towards students which
18 wasn't the clientele at Gibson's. I think if
19 you look back at the -- the Five Points
20 Merchant's Association they're kind of their
21 lead in line to their promotional activities
22 was Welcome To Friendly Five Points, a
23 Neighborhood Shopping Village.

24 A: And it was that at that point in time, it was
25 shopping village.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: And -- and by 2005 it had changed?

2 A: It was -- it was changing.

3 Q: It wasn't and it wasn't really a bar
4 destination at that point, was it?

5 A: It wasn't completely, but as you recall, I'm
6 not sure what year the -- the Saint Patrick's
7 Day Festival ---

8 Q: Right.

9 A: --- began, but it was prior to that maybe five
10 years prior to that and with that, you know,
11 the emphasis was becoming more and more towards
12 bars, party and a place to gather and drink,
13 those types of things and it just wasn't -- it
14 wasn't attracting the clientele that -- that we
15 wanted.

16 Q: So what about at Gibson's, did you have a good
17 -- did you -- did you -- I mean people coming
18 home from work would stop by and buy thing?

19 A: Early on they would, yes, and as we began to
20 have more bars and restaurants in the area,
21 that happy hour traffic kind of took up all the
22 parking spaces and at 5:00 o'clock window and
23 we saw business disappear during that period of
24 time, yes.

25 Q: Okay. Now, what about the change around your



1 home which is in an area almost adjacent to the
2 Five Points just a few blocks from ---

3 A: Yes.

4 Q: --- from it. How's that changed since 26 years
5 ago?

6 A: We moved there in 1981.

7 Q: Right.

8 A: And at that point in time it was just a nice
9 quiet neighborhood, a nice mix of older people,
10 a couple of little widows who had their homes
11 there, we were probably at that point in time
12 -- hard to believe the young people of the
13 neighborhood; I think we're -- we're the older
14 companies in the neighborhood, but it was a --
15 it was a quiet neighborhood, no problems with
16 crimes, litter, it was just like any other
17 neighborhood, you could go to the part just of
18 Shandon, it was very much like that.

19 Q: How does that compare to your last five years
20 living there?

21 A: It's change dramatically.

22 Q: In what way?

23 A: Not in a positive way.

24 Q: Has it affected, the changes, have those
25 affected the livability, the desirability to



1 live where you're living?

2 A: In my opinion yes, it takes a special person to
3 want to be there and you have to put up with a
4 lot now that we did not have to put up with.

5 Q: Or would have had to put up with?

6 A: I made a list of things, is that okay to work
7 from that because ---

8 Q: Absolutely.

9 A: --- it's a -- it's a long list and ---

10 Q: Now, he ---

11 A: --- I think Ms. Lucas ---

12 Q: Well, he ---

13 A: --- probably hit on a lot of the same things.

14 Q: --- he's going to examine it when you, after
15 you -- after you use it, but go ahead, I
16 haven't seen it ---

17 A: Okay.

18 Q: --- so I don't know what's in it.

19 A: A lot of it relates back to something Mr. Bland
20 said in his testimony yesterday.

21 Q: Which was?

22 A: And that, I'm probably paraphrasing, but it's
23 -- it at closing time it gets crazy out here,
24 and I would not disagree with you a bit. A lot
25 of the problems we have seem to occur at around



1 and after that closing time hour in Five Points
2 when the -- when the students are again to
3 leave we have issues with litter and we're both
4 retired and we go out for a walk in the evening
5 and -- and you're always picking up beer cans,
6 beer bottles, plastic cups from the
7 restaurants, an occasional litter from fast
8 food restaurants and it's -- you know, you can
9 have a clean up every weekend and the next
10 weekend, you know, you're covered with litter
11 again.

12 Q: What else -- what else do you have?

13 A: Garbage cans dumped over, the -- the loud
14 yelling as the students are leaving walking
15 back through the neighborhood, you've got a
16 fairly large population of rental student
17 housing down Waccamaw behind us so they --
18 we're kind of between them and Five Points and
19 as they leave the bars they're a terrible
20 noise. I mean ---

21 Q: Are they drunk, can you hear intoxicated
22 people?

23 A: I don't think sober people are shouting and
24 screaming, hollering and whatever at 2:00
25 o'clock, 3:00 o'clock in the morning unless



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 they have drinking together.

2 Q: Okay. What else?

3 A: I can't verify they're drunk, but that's my
4 opinion.

5 Q: Do you ever meet any, see any of them at 2:30
6 in the morning, you ever confront any of them?

7 A: I'm usually in bed asleep or wishing I was
8 asleep lying there listening to these people,
9 but no, I, you can't even tell where they are
10 because we can hear them probably from a block
11 away to the block on the other side.

12 Q: Have you ever had to call the police?

13 A: I've never called the police for that because
14 by the time the police arrived they would have
15 ---

16 Q: They're gone. Well, have you ever called the
17 police for any reason?

18 A: I've called the police for a number of reasons
19 probably a dozen times in the last ten years.

20 Q: For?

21 A: Primarily for loud parties, student partying
22 into the middle of the night.

23 Q: In their homes or coming from Five Points?

24 A: These are mainly in their home.

25 Q: Okay.



1 A: But, you know, Five Points is the thing that
2 attracts them to the area.

3 Q: Right.

4 A: Then you'll come in there because you're close
5 to Five Points, close to the bars, a great
6 place to party.

7 Q: Okay.

8 A: So yes, I have called the police for that and
9 I called the police a few times for parking
10 issues, we've had a real problem with students
11 parking on our street taking up all the parking
12 places on the street even blocking our driveway
13 and we can't get out.

14 Q: To go to Five Points?

15 A: It's hard to tell because sometimes the cars
16 will be there overnight till the next day, but
17 typically you can look in the window and their
18 backpacks in there and school books in there,
19 they're obviously students.

20 Q: Right.

21 A: But I never could identify who they were and
22 where they're going, my opinion is yes, to Five
23 Points.

24 Q: Okay. So -- and the weekend begins on Thursday
25 night, is that your understanding, it that ---



1 A: The weekends do begin on Thursday night, that's
2 correct.

3 Q: So ---

4 A: And we've had our number of problems with
5 vandalism as well, bricks thrown through
6 windows, cars sideswiped on the street, not
7 necessarily our cars, but neighbors, had a
8 brick thrown through the window at Gibson's one
9 time in the middle of the night, goes on and
10 on.

11 Q: Well, let me ask you this and let me sort of
12 cut to the chase.

13 A: Okay.

14 Q: You indicated the quality of life at your home
15 has decreased over the last ten years.

16 A: Yes.

17 Q: And do you attribute that to the service of
18 alcohol in Five Points?

19 A: Yes, I do.

20 Q: And does it make sense to you to add one more
21 alcohol outlet to what's already there?

22 A: No, sir, it does not.

23 Q: And you're asking this court to deny the permit
24 that their -- their permit to serve alcohol
25 based on the -- the number of alcohol outlets



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 already in your immediate neighborhood?

2 A: Yes. I -- I feel like the bars have taken over
3 our neighborhood and all the adjacent
4 neighborhoods to Five Points area and I think
5 Ms. Lucas stated it very nicely when she said
6 it's time for the adults to take control again.

7 Q: And the adults taking control would be this
8 court ---

9 A: Uh-huh.

10 Q: --- denying an additional alcohol outlet there?

11 A: Yes.

12 Q: Adding to the problem?

13 A: Yes.

14 Q: Now, let me see your notes. They're typed up,
15 thank you, very nice. Let me -- you have
16 another copy there?

17 A: Sure. I've got a couple of them.

18 Q: Just hold on to it. And I handed Mr.
19 Montgomery a copy of the notes.

20 A: Okay.

21 Q: So have you ever been down there at 11:00 or
22 12:00 o'clock at night in Five Points?

23 A: I mean obviously when I was in college ---

24 Q: No, I'm talking about recently.

25 A: --- I went to Carolina I was, but I, you know,



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 I drive through there occasionally we may go
2 out and have dinner with friends or something
3 and come back late in the evening, I try to
4 avoid driving through there if I can ---

5 Q: Why?

6 A: --- because I have -- I find it a little bit
7 upsetting and intimidating, you know, a lot of
8 kids out on the streets, you're not sure who's
9 drinking, who's -- who's sober, who's not,
10 who's going to walk out in front of you, just
11 don't like going through there.

12 Q: So within the last two year, ten years you've
13 ridden through there and seen large groups of
14 kids on the street?

15 A: Oh, gosh, yes.

16 Q: And they're congregating around the alcohol
17 establishments?

18 A: They seem to be congregating around the alcohol
19 establishments, but they're also just
20 meandering around, I, you know, I haven't in
21 all of honesty been there enough to develop a
22 pattern, to see a pattern other than to say
23 there are a lot of kids out.

24 Q: And you avoid driving through there because of
25 that?



1 A: I do.

2 Q: Thank you. Please answer any questions Mr.
3 Montgomery or the DOR might have.

4 **MR. LAMB - CROSS-EXAMINATION BY MR. MONTGOMERY:**

5 Q: Mr. Lamb, you're very patient, you've been
6 sitting through this both days.

7 A: Thank you.

8 Q: Mr. Harpootlian had talked with you about these
9 issues you've identified in a very general
10 broad time period. When did you close
11 Gibson's?

12 A: We didn't close it. We moved it further up
13 Devine Street in 2005 and sold it in 2014 ---

14 Q: So ---

15 A: --- it was still open.

16 Q: --- so when you talk about brick thrown through
17 Gibson's window that was before 2005?

18 A: That's correct.

19 Q: Okay. And you indicated in your neighborhood
20 there's a lot of rental student housing.

21 A: That's correct.

22 Q: When you talk about these problems that you
23 have from a quality of life standpoint how are
24 you allocating those concerns between the
25 people that are in the neighborhood versus



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 people being transient coming from Five Points?

2 A: Well, other than on Saint Patrick's Day which
3 is another animal altogether I don't think that
4 you have that of them who are transient going
5 into Five Points walking through our
6 neighborhood, I think most of those are people
7 who are living in the neighborhood who are
8 walking.

9 Q: Okay. So they're either, ---

10 A: I don't have any statistics to prove that, but
11 common sense tells me I look around and I know
12 -- I know what I see.

13 Q: All right. So you think they are people in
14 your neighborhood then?

15 A: I would think so, yeah.

16 Q: Okay.

17 A: But if they're walking.

18 Q: Okay. And when you talk about the litter and
19 things ---

20 A: Uh-huh.

21 Q: --- are you getting litter from any particular
22 establishment's name on it or is it just litter
23 that's coming in in general?

24 A: If says Budweiser I have no idea where it came
25 from?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: Okay.

2 A: And I -- I don't mean to give you a flip answer
3 but there's no way to tell. If they would put
4 their advertisement on there cups and cans
5 maybe we could identify it, maybe they could
6 help us pick up things, but so far nobody's
7 offered to do any of that and so far I can't
8 tell anything other than it's a beer can.

9 Q: Did you get an -- an indentation from my
10 client's to come and meet with them and talk
11 about this?

12 A: Yes, I did.

13 Q: Is there a particular reason you chose not to
14 come?

15 A: We had been out of town and we got back in the
16 evening of -- it was just the day before I got
17 it in the mail it really wasn't enough time to
18 -- to make ---

19 Q: Okay.

20 A: --- to make the meeting.

21 Q: But they, in that invitation they actually
22 offered to talk to you anytime, didn't they?

23 A: I believe they did, yes.

24 Q: Okay. And I know you were in the retail
25 business and you'd agree with me that part of



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 the issue we're having with retail in this
2 country is that e-commerce has dramatically
3 changed the ability for people to operate
4 retails outlets successfully, hasn't it?

5 A: Yes.

6 Q: And if you -- you go out to Columbia Mall or
7 Dutch Square and remember what they were 20 or
8 30 years ago and what's there now, right?

9 A: Uh-huh. Yes.

10 Q: And I'm sure that's had the similar impact in
11 Five Points and downtown Columbia and
12 everywhere else, hasn't it?

13 **MR. HARPOOTLIAN:** Objection, Your Honor. He's
14 asking for his opinion on the impact of e-
15 commerce on Five Points, perhaps he needed to
16 get an expert if he's asking him to give an
17 opinion about that because an expert would have
18 to give an opinion on that.

19 **MR. MONTGOMERY:** Your Honor, I'll withdraw the
20 question, but I'll just point out to the court
21 that he's given, you know, lots of things ---

22 **MR. HARPOOTLIAN:** Nobody objected.

23 **MR. MONTGOMERY:** --- his personal knowledge ---

24 **MR. HARPOOTLIAN:** .Nobody objected.

25 **THE COURT:** Okay.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 **MR. MONTGOMERY:** Hey, I'm nice to him and it doesn't
2 do me any good.

3 **THE COURT:** He will give no quarter.

4 **MR. HARPOOTLIAN:** None expected either, Your Honor.

5 **Q:** In some of the things that you mentioned that
6 were -- were criminal activities occurred and
7 you called the police has the police identified
8 any of the perpetrators any of these things?
9 Like you said your yard lights we're broken.

10 **A:** I never bothered to call the police on that
11 because I knew it was not a priority and we've
12 had the car broken into once or twice and
13 people riffl'd through the car looking for
14 parking meter change, I don't know what. We
15 called the police and, you know, it's not a
16 high priority, that's not a major crime and
17 nothing ever happened so I've got sense enough
18 not to waste me time or there's when somebody
19 steals a yard light other than, to me, it's
20 frustrating enough, so.

21 **Q:** Sure. And it's -- it's -- sometimes urban
22 environments have issues that cause us all to
23 be frustrated, don't they?

24 **A:** They do, but these were not problems that we
25 had 10 to 15 years ago, I mean we had



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 occasional problems but it's regular now.

2 Q: Okay. Have you done any longitudinal kind of
3 study or have any evidence to support what's
4 changed over that ten years from a -- other
5 than your sort of general observation?

6 A: Well, I've got 30 something years of experience
7 living in the area and base on my personal
8 experience that's what I've see, yes.

9 Q: Okay. Mr. Lamb, I thank you very much. If
10 you'd answer any questions ...

11 MS.. SHIELDS: I don't have any questions, Your
12 Honor.

13 THE COURT: You can step down then, thank you.

14 A: All right. Thank you.

15 THE COURT: All right. Let's take a -- do we have
16 more witnesses?

17 MR. HARPOOTLIAN: We've got one more witness.

18 THE COURT: Okay. Let's take a ten minute break and
19 then we'll come back and try to -- and see if
20 we can finish with this.

21 (Off the Record)

22 THE COURT: All right. Y'all have a seat. So did
23 we actually admit that last --

24 MR. HARPOOTLIAN: The Google Maps?

25 THE COURT: Yeah, that Google Map. I can't



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 remember.

2 **MR. HARPOOTLIAN:** Yes, Your Honor. I offered it.

3 It was marked -- it was no -- no opposition and
4 it's in --

5 **THE COURT:** Okay.

6 **MR. HARPOOTLIAN:** --- on the last witness.

7 **THE COURT:** Right.

8 **MR. HARPOOTLIAN:** And on the previous witness also.

9 **THE COURT:** Yeah, I knew we had admitted that one.
10 Okay.

11 **MR. HARPOOTLIAN:** And actually those are ---

12 **MR. MONTGOMERY:** Your Honor, I'm going to bring
13 those to the Court Report so we don't lose or
14 misplace --

15 **THE COURT:** Thank you.

16 **MR. MONTGOMERY:** --- those exhibits. Thank you.

17 **THE COURT:** I appreciate that Mr. Montgomery. All
18 right.

19 **MR. HARPOOTLIAN:** Your Honor, ready to proceed?

20 **THE COURT:** If you are.

21 **MR. HARPOOTLIAN:** The intervenor will call Tom
22 Gottshall to the stand please.

23 **THOMAS R. GOTTSHALL,** having been duly sworn,
24 testifies as follows:

25 **MR. GOTTSHALL - DIRECT EXAMINATION BY MR.**



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

HARPOOTLIAN:

Q: State your full name for the record, please.

A: My name is Thomas R. Gottshall, Tom Gottshall.

Q: And Mr. Gottshall, where do you live?

A: I live at 1824 Senate Street in University Hill Neighborhood. I'm about three and a half blocks farther up sort of speak from where April Lucas had previously testified where it is.

Q: Okay. And let me go over a little bit about your background. What do you do for a living?

A: I'm a lawyer with Haynsworth, Sinkler, Boyd, I've been with them for 43 years.

Q: Really?

A: They and their predecessor firms.

Q: Well, who was the predecessor?

A: Boyd Knowles and Tatum Finley, Kirkland Finley. Kirk Finley was the Mayor he was years ago.

Q: Yeah. I know.

A: Okay.

Q: Okay. So at what -- let's -- so we can give the Court's own flavor of your educational background, where'd you go to undergraduate school?

A: I got a B.A. from Yale in 1967.



1 Q: And then?

2 A: And then law school at the University of
3 Pennsylvania in 1970, then I practiced for a
4 short time with Pepper Hamilton and Sheets in
5 Philadelphia before going into the Army JAG
6 Corp, I was there for nearly four years and
7 then I went with Boyd Knowles and Tatum Finley,
8 Now Haynsworth, Sinkler and Boyd.

9 A: Okay. How long have you lived at your current
10 address?

11 A: 42, almost 42 years.

12 Q: Okay.

13 A: My wife and I have restored this house, we
14 raised our two children there so our whole
15 married life has been there.

16 Q: And let me see if I can acclimate the court to
17 where your house is on Senate Street. If you
18 travel up Laurens Street past Ms. Lucas' house
19 you'd come up to Senate Street?

20 A: Well, you come to Pendleton first ---

21 Q: Right.

22 A: --- then you'd come to Senate, Laurens Street
23 dead ends at Senate, then you'd turn left on
24 Senate and you'd go about a block and a third
25 so you'd pass Gregg Street and then I'm in that



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 next block, the Heritage Condominium is across
2 the street.

3 Q: Right. The Heritage is across the street.

4 A: Right.

5 Q: So -- so you'd turn left on Senate, cross Gregg
6 and you would be at your place there on the
7 left, it's a divided street at that point.

8 A: It is, I'm the second house from the corner.

9 Q: Okay. So -- but if you go down, further down
10 Senate Street from your house the University of
11 South Carolina starts pretty soon, right?

12 A: Yes.

13 Q: What's -- what's the closet dormitory to you?

14 A: Well, actually the closest dormitory is if you
15 went down Senate to the next street is Barnwell
16 and turned left Columbia Hall is on that next
17 corner and then Capstone is aside of it.

18 Q: Okay. Now, you've lived there for how long?

19 A: 40, almost 42.

20 Q: Okay. And have you, when your children were
21 small, walked them down to Five Points or
22 driven them down to Five Points?

23 A: Yeah. We used to walk down to Five Points
24 actually. Like April Lucas we sometimes would
25 go to Frank's Hot Dogs.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: Okay. Now, are you President of the University
2 Hill Neighborhood Association?

3 A: I am, I'm in my second term as president
4 elected to two year terms I've been on the
5 executive counsel of our neighborhood since it
6 was formed as April said, I believe it was in
7 the early 1990s.

8 Q: Okay. Now, describe your neighborhood for me,
9 please.

10 A: Well, it is between the University of South
11 Carolina and Five Points hence the University
12 Hill Neighborhood, it has a lot of tree lined
13 streets, it has sidewalks, it's really a
14 pedestrian community, it's covered by an
15 architectural conservation district so you
16 can't change the exterior without permission
17 so it's preserved the neighborhood. The zoning
18 which is important here, is called residential
19 duplex and what you can -- oh, you can only
20 have two residential units on the same lot
21 regardless of how large the lot size is. The
22 neighborhood over many years had a lot of
23 single family homes restored and to prevent
24 them being broken up again into numerous
25 apartments, this designation residential duplex



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 was placed on it so they can't flop back. So
2 if you had enough lot space you can have a
3 second unit, but that's it.

4 Q: And do you -- the neighborhood lobbied that
5 through with the city, correct?

6 A: We did and that was quite a number of years ago
7 and another thing we've done is we've -- we've
8 been very lucky to have now the landlord tenant
9 ordinance which is recently adopted by Columbia
10 which helps us put landlords in jeopardy if
11 they run bad places, for example, if they let
12 students run wild. We do also have throughout
13 the City of Columbia it's very well enforced in
14 our neighborhood an ordinance that prohibits
15 more than three unrelated people living in the
16 dwelling unit, so you can't have more than
17 three students in the same apartment of the
18 same house regardless of how big the house is
19 and we went to the Supreme Court of South
20 Carolina on that issue I think tree years ago,
21 they unanimously found it to be constitutional.
22 So that's -- so our neighborhood is a
23 residential neighborhood, single family homes,
24 some rental as well and we ---

25 Q: Any other -- you have a variety of different



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 people living in it. Do you have any students
2 living in your neighborhood, do you know?

3 A: We do indeed.

4 Q: And ---

5 A: We absolutely have students ---

6 Q: --- across the street in The Heritage, you have
7 a Federal Judge, you've got all kinds of
8 people?

9 A: We do. We have law professors from the new law
10 school live in our neighborhood, all different
11 kinds of people.

12 Q: Matter of fact the current governor of the
13 State of South Carolina owns a house almost
14 catty corner from you?

15 A: He does.

16 Q: And he is currently not living in it, the state
17 has provided him living space.

18 A: A little larger residence.

19 Q: A little larger residence, but perhaps he'll
20 have use of that one day. Well, I didn't say
21 when. I remarked that he may be back in the
22 neighborhood sooner ---

23 A: We hope he will survive through a term.

24 Q: Well, of course you are a republican.

25 A: I'm not, I have no ---



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: Right. Okay. So just moving along here to the
2 more relevant material.

3 **THE COURT:** Let's do.

4 Q: So the -- from when you began going to Five
5 Points four years ago and you remember
6 Gibson's?

7 A: I do.

8 Q: And you remember Frank's Hot Dogs?

9 A: I do.

10 Q: And you remember the retail establishments and
11 small eating establishments that were there,
12 correct?

13 A: I do.

14 Q: The Parthenon?

15 A: Right.

16 Q: Have you seen a change in the character of Five
17 Points?

18 A: Yes. That retail crowd, the retail shops have
19 really gone, we had Hiller Hardware for example
20 we had a, frame shop, it was another jeweler
21 that was there a whole raft of these kinds of
22 businesses, Gibson's of course included have
23 left and from my standpoint where we are now,
24 we're a bit farther from Five Points I -- I
25 would have to say that Lyon's Street and



1 College Street, Laurens where April Lucas lives
2 and some of the neighbors that she described
3 and College Street which runs from Laurens to
4 the back of Capstone, these are areas under
5 siege today. As the president of the
6 Neighborhood Association I get, you know, they
7 must think I'm the police because I get calls
8 all the time and emails from my neighbors,
9 they're sending me pictures of things that
10 happened, just this week I had a pic -- the
11 Allison's who are just down the street from
12 April Lucas sent me pictures, their -- their
13 car had been walked over in the middle of the
14 night ---

15 Q: They had video of it too, didn't they?

16 A: --- yeah. And ---

17 Q: And by a student ---

18 A: --- anyway ---

19 Q: --- it appeared to be a student in the video,
20 correct?

21 A: I don't, I didn't see the -- I don't remember
22 the video.

23 Q: Okay. So let me -- let's -- the character has
24 changed and retail establishments and even
25 restaurants have left, correct?



1 A: Correct.

2 Q: Garibaldi's, gone.

3 A: Harper's.

4 Q: Gone.

5 A: And we used to go to Harper's a good bit.

6 Q: Right. Now -- and you've heard the testimony
7 in this case that when the courthouse was at
8 800 Harden, they were pay \$2,300 a month, the
9 landlord as recently apparently they signed,
10 this applicant has signed a lease for \$6,500 a
11 month and I believe you talked to some retail
12 and other folks that have occupied those spaces
13 and if they indicated to you that they a month
14 and run a restaurant or a retail establishment
15 out of those places.

16 A: Well, I think that's what these applicant's
17 told us I as with April Lucas on February 11th
18 ---

19 Q: Right.

20 A: --- when we went down to -- to their temporary
21 establishments, the Rooftop first and then to
22 the Roost and yeah, they told us that, you
23 know, they basically said well, you can't have
24 anything else here because or the -- of the
25 increase in the -- the rent. I have to tell



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 you what -- what really astounded me in that
2 meeting and Adam Ruonala did most of the
3 talking, he -- he mentioned for example the
4 capacity of the Roost, now the capacity he said
5 was for 275, it's actually longer, a little --
6 little greater than that, but they keep it at
7 275. They said at the Rooftop it was 125, they
8 said the Rooftop they had 200 people often
9 times standing in line to get in, it was filled
10 on the inside and that the people standing in
11 line at the Roost was some way significant so
12 if we're talking about the Roost itself at one
13 time you can have at one -- at one moment in
14 time you could have 475 people at that one
15 establishment, at that one establishment.

16 Q: Some outside, some inside?

17 A: Some outside, some inside. In fact some almost
18 as many outside as they're inside. And we've
19 heard the Chief talk about how now they have
20 self generated calls for services, that is
21 calls for services from the police themselves,
22 they're down there and they're making calls for
23 service and how this is continuing.

24 Q: Now, do you -- have you also heard from Mr.
25 Ruonala or either here in the courtroom or at



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 your meeting how many times -- they apparently
2 have the ability to call Uber to take -- make
3 sure that over -- over intoxicated overly
4 intoxicated people get a ride home rather than
5 driving, correct?

6 A: Yes. When we were down there on February 11
7 Mr. Ruonala told us that they have a corporate
8 Uber account and they had already sent more
9 than 200 home in Uber. Now, these are -- these
10 are people -- the -- the suggestion was these
11 people shouldn't be out there driving by
12 themselves so they're going to drive them home
13 plus ---

14 Q: So -- wait a second, so he indicated to you
15 that they observed 200 people so intoxicated
16 they didn't believe they ought to be allowed to
17 walk or drive home, correct?

18 **MR. RUONALA:** That's not what I told him.

19 A: Well, they didn't use those, that term, but
20 they -- they self identified 200 people who
21 they thought needed to have Uber services to
22 take them home safely.

23 Q: Okay. And the place only holds 275?

24 A: Now, this was over -- this was over this period
25 of time.



1 Q: Well, they've only been opened two months.

2 A: Oh, that's right.

3 Q: So in two months they've sent almost as many
4 people that the place holds home in an Uber
5 because they didn't believe they ought to be
6 out walking or driving on their own, is that
7 right?

8 A: Right. Correct.

9 Q: Is that what he indicated to you?

10 A: Yes.

11 Q: Okay. If I could add just one thing on that
12 same.

13 A: Sure.

14 Q: Mr. Bland testified the other day that they had
15 turned away already something like 25 to 30
16 people who had, who were under age, now, that
17 -- that to me raises a real issue of this
18 attractive nuisance that's evidence as is the
19 people standing outside that this is attracting
20 large numbers of students so we have people
21 driving down the street like Bill Lamb and he's
22 observing all these people on the street, all
23 these people on the sidewalks and the sorry
24 thing is it spills over into our neighborhoods.

25 Q: And ---



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 A: And then our neighborhood specifically as well
2 as Wale's Gardens, others, so.

3 Q: So tell me specifically how it's affected your
4 neighborhood in the recent past.

5 A: Honestly from -- from my observation the last
6 three years has markedly increased from the
7 time prior to it.

8 Q: What's increased?

9 A: Well, the foot traffic of students, the noise
10 at night, we never really heard that up on
11 Senate Street now we're hearing it and we see
12 lines of students headlining to Five Points.

13 Q: What about coming home?

14 A: One of the joys of being a little older is I
15 don't hear as well and I'm not as easily
16 awakened so I -- I don't hear as much.

17 Q: Do you see the -- do you have complaints you're
18 the head of the neighborhood ---

19 A: Oh, yeah. I mean people, like I said people
20 call me and they email me about all these kinds
21 of acts of vandalism especially several on
22 College Street. The cars have been walked
23 over, students walk over the tops of cars, Mark
24 Loverne(phonetic) who lives on Laurens Street
25 down a little bit beyond April closer to Five



1 Points his door was knocked out, the door was
2 just broken down by ---

3 Q: By ---

4 A: --- young people ---

5 Q: Drunk?

6 A: Yes.

7 Q: Okay.

8 A: --- so -- so this is the -- this is the kind of
9 stuff that's going on.

10 Q: Anyone ever report public urination?

11 A: Yeah. And beyond that the Allison's have
12 reported public sex ---

13 Q: Public sex?

14 A: --- on the hood of their car in front of their
15 house.

16 Q: What street do they live on?

17 A: They live at the corner of Laurens and College.

18 Q: Okay. And just on a Friday or Thursday or
19 Saturday night?

20 A: One of those nights.

21 Q: Nothing special going on, it wasn't Saint
22 Patrick's Day it was just ---

23 A: It was not a Saint Patrick's Day.

24 Q: Okay. Now, your neighborhood association
25 passed a resolution along with other Five



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Points residential neighborhood organizations
2 asking that the DOR and/or this court do what?

3 A: Well, we passed a resolution asking or
4 advocating the reduction of the number of bars
5 at Five Points because our observation is that
6 the concentration of bars has now reached a
7 critical point. That it is really impacting
8 not just those on the edge of Five Points,
9 Laurens Street which is close but even where we
10 are, we're -- we're beginning to get the impact
11 too. We're not that big a neighborhood so what
12 affects part of the neighborhood really affect
13 all of us and we tried to hang together with
14 respect to that.

15 Q: And these other neighborhood organizations, the
16 Wale's Gardens neighborhood, Wale's Gardens
17 neighborhood, Shandon, Martin Luther King all
18 these other neighborhoods have passed similar
19 resolutions?

20 A: Well, April said -- I can't add beyond what
21 April said ---

22 Q: Okay.

23 A: ---- why don't you ask her that question?

24 Q: Okay. Okay. Now, you have as president of
25 this neighborhood organization entered, well,



1 personally and -- entered a -- a objection, a
2 protest to this bar getting a license to serve
3 on premises liquor, right?

4 A: Yes.

5 Q: And you've gone and visited their location?

6 A: Right.

7 Q: And you listened to all the testimony here?

8 A: I have.

9 Q: Have what you heard changed your opinion at
10 all, what you've heard from them or in here?

11 A: No. In fact it's increased my opinion because
12 this location is one of the worst locations in
13 all of Five Points. The police had -- had to
14 identify this as troublesome place and so when
15 you look historically -- when you look
16 historically at this place, all the calls for
17 services that the Chief talked about led him to
18 seek the declaration that this was a nuisance
19 and now we find out that these people who are
20 going to run this are financially connected to
21 the people who previously ran the Pour House
22 before.

23 Q: Now, you've heard that the two managers used to
24 work at the Pour House?

25 A: We have. Eric Collins, Eric Thompson and



1 Collin Ellege I believe.

2 Q: Right. The two, I mean they've been
3 identified.

4 A: Right.

5 Q: And they were not disclosed on any application
6 that you saw ---

7 A: No.

8 Q: --- before you protested? And Mr. Bland used
9 to -- and of course he admits he was testimony
10 manager of the Pour House at some point not
11 since 2014 he said, he misrepresented himself
12 on the internet and on his resumes, but he did
13 manage it and work for Mr. Wells, correct as
14 did the other two managers?

15 A: That's what I've heard, yes.

16 Q: And he had financial and Mr. Wells continues to
17 have a financial interest. Now, even if these
18 folks would do all they say they going to do
19 would you still oppose and protest their
20 licensing?

21 A: I would.

22 Q: Why?

23 A: Because the -- the -- what has become the
24 critical problem here is the vast number of
25 bars, the concentration of bars. The



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 attraction to vulnerable group of students in
2 the sense that most of these student, we know
3 most of these students are underage, they're
4 mostly freshman and that's what's being
5 attractive there, that's -- that's what these
6 studies showed, that's what -- even -- even
7 these applicants tell us that there are people,
8 they are trying to get in with fake ID's so --
9 so this continuation of this concentration, the
10 -- the chaos that is there at night, the
11 reports of getting up in the morning and
12 there's vomit on the street, you can smell the
13 vomit, you can smell the beer and we're not
14 just talking about -- we're not just talking
15 about Saint Patrick's Day, but all this sort of
16 stuff going on and then the overflow into these
17 neighborhoods, these are residential
18 neighborhoods I mean these -- these people, a
19 lot of people have been there a long time, a
20 lot of people have come in more recently,
21 they're younger people who are living there too
22 with young -- young children that I -- one of
23 my neighbors just live a block away has -- has
24 three kids, he one of our executive council
25 members on our -- on our neighborhood council

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 so the neighborhood is a -- is a vibrant thing
2 that's alive, but it's being held under siege
3 by this concentration that has this place what
4 had been a much more benign mix, the mix of
5 retail and bars is way out of whack so, yes.

6 Q: Oh, and -- and they indicate that they're sales
7 of food for the last two or three months
8 they've been open represent somewhere between,
9 I've got two numbers five percent in his
10 deposition and somewhere between six and ten
11 percent here in court, is that restaurant?

12 **MR. MONTGOMERY:** Your Honor. I'm going to object. I
13 don't think he's qualified to give an opinion
14 on that.

15 **MR. HARPOOTLIAN:** Well, I mean let me ask you this,
16 have you been in a responsibilities?

17 A: Yes.

18 Q: Okay. And a restaurant typically has, they
19 serve meals?

20 A: They do.

21 Q: And that would be their primary purpose,
22 they're primary -- I mean when you go -- you
23 used to go to Garibaldi's, right?

24 A: I did.

25 Q: They have a bar in Garibaldi's or had?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

- 1 A: Well, I used to -- I used to drink at Harper's.
- 2 Q: At Harper's, right. They had a bar?
- 3 A: But -- but that -- but you had something with
- 4 a meal, it was -- it was really a meal, that
- 5 was the primary deal.
- 6 Q: But you could go in and just have drinks?
- 7 A: Yeah, you could.
- 8 Q: Okay. And you remember -- I mean how many
- 9 times did you go to Harper's? 100s?
- 10 A: Probably, yes.
- 11 Q: Garibaldi's?
- 12 A: Not that often.
- 13 Q: Really?
- 14 A: It was too expensive.
- 15 Q: So at any of those places that you went, any of
- 16 the Five Points restaurants, did you ever go to
- 17 the Parthenon?
- 18 A: Yeah.
- 19 Q: Okay. Can you and a number of all of the
- 20 restaurants that have been there over the years
- 21 remember anybody ever being told they couldn't
- 22 have alcohol -- I mean, was there people
- 23 presenting fake ID's follow up get into
- 24 Garibaldi's or to Harper's or if you remember
- 25 a single incidence of that?



1 **MR. MONTGOMERY:** Your Honor, I don't know how this
2 witness has any way to have knowledge of that.

3 **MR. HARPOOTLIAN:** His knowledge.

4 **THE COURT:** He's asking for his personal experience.

5 **MR. HARPOOTLIAN:** Yes, ma'am.

6 **Q:** Do you ever remember anything like that
7 happening?

8 **A:** Well, I remember -- I mean I remember I did go
9 to Garibaldi's occasionally, I do remember
10 sitting there and people coming in the door, I
11 never saw that kind of thing happening and
12 neither did I see that really at Harper's.

13 **Q:** Okay.

14 **A:** Which is where we went the most.

15 **Q:** Okay. Did you ever see -- well, strike that.
16 So you're asking this court as a protestant to
17 deny this application based on it's impact on
18 the communities surrounding the bar?

19 **A:** I am. And because it's history going back is
20 just about the worst when you look at this
21 particular location historically, but that with
22 this concentration at which -- which
23 proliferates this overflow into the
24 neighborhood and makes students perpetrators or
25 crime on the one hand and victims on the other



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 because they'd often times are themselves the
2 -- the recipient of foul play by an element
3 that we know is brought in and preys on these
4 students.

5 Q: And your experience has been similar to Mr.
6 Lamb's experience in his neighborhood.

7 A: It had -- well, his -- I'm a little farther
8 away.

9 Q: Right.

10 A: So I -- I am now seeing as I said it for the
11 last three years more student activity than we
12 ever used to see.

13 Q: Now, have you ever driven through Five Points
14 at 10:00 or 11:00 o'clock at night or on a
15 Thursday, Friday, Saturday?

16 A: Yeah.

17 Q: And do you notice anything different about the
18 sidewalks and the streets ---

19 A: Bill Lamb is absolutely correct, I mean it's --
20 it's incredible the sidewalks are absolutely
21 crowded, streets, people back and forth across
22 and it's ---

23 Q: Creating a unsafe atmosphere?

24 A: Yep. Absolutely.

25 Q: You have people walking down the street?



1 A: People are jaywalking all the time.

2 Q: From bar to bar?

3 A: Right. And I'd like to say the other thing, I
4 just didn't want to let this go, but, you know,
5 we do have an ordinance in correlation, I'm
6 assuming, you're not supposed to have these
7 drinking place within 400 feet of each other,
8 that social policy somehow seems not to have
9 been affected and was brought into affect
10 because as I earlier said that I -- Group
11 Therapy is right next to the Roost and right
12 across the street is The Breaker's, that's
13 probably 150 feet. I was there with Chief
14 Santiago at The Breaker's a few years ago ---

15 **THE COURT:** So do you -- I'm not familiar with this
16 ordinance that your discussing so do you have
17 -- do you have evidence that there's an
18 ordinance?

19 **MR. HARPOOTLIAN:** Oh, there's an ordinance that
20 prohibits drinking places from being within 400
21 feet. Now, the zoning administrator, Your
22 Honor, he takes the position these places were
23 grandfathered because there had been drinking
24 establishments there. That'll only be
25 litigated at some point down the line.



1 **THE COURT:** But that's not an issue before me?

2 **MR. HARPOOTLIAN:** That's not an issue before you and
3 I don't, I believe the case law indicates
4 zoning issues are not a proper for this court
5 to consider.

6 **THE COURT:** That's true.

7 **MR. HARPOOTLIAN:** So we didn't print -- I had the
8 zoning administer subpoenaed, I read the case
9 law and let her go.

10 **THE COURT:** Okay.

11 A: But I would -- the only -- I -- I don't
12 disagree witnesses that at all, but the only
13 point I make is that this enunciates a social
14 policy with respect to the City of Columbia
15 grand fathered or not that is shows that the
16 concentration of bars at Five Points is way out
17 of whack. The policy that was sought to occur
18 hasn't occurred and the -- the trend over
19 these last years with all the retail have fled
20 is that now we have, you know, I don't know
21 what it is 75 percent bars and I went down
22 there with Santiago ---

23 Q: Chief of The Police.

24 A: Chief of The Police at the time and we -- we --
25 a couple of us went on a fact finding mission



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 to sort of look at -- go into some of these
2 places, and the guy who ran Breaker's, a young
3 guy I don't think he was over 30 he was four
4 sheets to the wind, I never -- I mean this guy
5 was the guy who ran the place and they had
6 music outside which isn't permitted so I said
7 Chief, isn't this illegal, he said yeah, it is
8 he said take that, take them in, he goes get
9 the band off. So the policing, you know, if
10 you're not constantly there these -- these
11 people can not be kept under wraps, they can
12 not be held in -- in line.

13 Q: Unless they're not open. Unless they're not
14 there.

15 A: Unless they're not there.

16 Q: Okay. No further questions.

17 **THE COURT:** All right. Mr. Montgomery?

18 **MR. GOTTSHALL - CROSS-EXAMINATION BY MR. MONTGOMERY:**

19 Q: Thank you, Your Honor. If it please the Court.
20 Mr. Gottshall, what residential college?

21 A: Trumble.

22 Q: Okay. Spend any time at Mory's when you were
23 at Yale?

24 A: I ate a lot of rice pudding.

25 **MR. HARPOOTLIAN:** Oh, yeah?



1 A: No, I paid some tuition for that, though.

2 MR. HARPOOTLIAN: I ate a lot of tuition.

3 MR. MONTGOMERY: They should have given me
4 something, but they didn't, they gave my child
5 a diploma instead.

6 Q: When you talk about having visited the
7 establishments you've never worked security or
8 done any of those kind of jobs that involve
9 policing the things you talked about, have you?

10 A: No.

11 Q: Okay. And Mr. Harpootlian didn't ask you, but
12 I think I know the answer, you haven't observed
13 anything that links any of the activity that
14 you described to the operations that my clients
15 have engaged in?

16 A: No, not any specific thing.

17 Q: Yeah.

18 A: Although I -- although your class are linked to
19 the prior Pour House which doesn't have a good
20 historical reputation.

21 Q: But you'd agree that you talked to them and
22 they're implementing a number of policies that
23 would have, you'd have to agree are favorable,
24 wouldn't you?

25 A: Well, I, you know, I -- I -- I'm not in a



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 position to critique the success of PR stuff.
2 Now, I got these letters and Mr. Ruonala is
3 quite a talker, but -- but in the end the
4 problems remain the same.

5 Q: Maybe. All right. If you can't say that for
6 sure because you don't know what's going to
7 happen or how that might change the rest of the
8 environment.

9 A: Well, I think the Chief said that the -- the
10 self-generated calls for services still
11 continue.

12 Q: Okay. But the Chief, his testimony stands on
13 it's own, you're not ---

14 A: It certainly does.

15 Q: --- here to try to testify on his behalf, are
16 you?

17 A: I'm just here to make reference to ---

18 Q: And when they talked about Uber they told you
19 they'd let anybody that wanted a ride home,
20 they gave them ride home, didn't they?

21 A: Well, I think the -- the context was that they
22 had made a decision, that these people needed
23 an Uber.

24 Q: Okay. But you wouldn't disagree that they told
25 you was anybody that needed a ride they give



1 them one, did you?

2 A: I don't remember that.

3 Q: Okay. And you're about half a mile actually
4 from -- from the location, aren't you?

5 A: I don't know, I'm about -- I'm a -- I would --
6 I could -- I could walk it in eight minutes
7 let's say.

8 Q: Okay. And that would be eight minutes if you
9 walked about a 16-minute mile, right?

10 A: I guess.

11 Q: Yeah. Okay. Now, Mr. Gottshall have you been
12 involved in other issues around Five Points?

13 A: I don't know what you mean.

14 Q: Well, have you ever protested another license
15 there?

16 A: No.

17 Q: Do you have any other protest pending other
18 than these two locations?

19 A: No.

20 Q: Do you know that there are other applications
21 out there right now, why haven't you protested
22 them?

23 A: Well, I ---

24 **MR. HARPOOTLIAN:** You know, Objection Your Honor.
25 There's one case here, there's no other -- no



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 other applications up that we know of. If
2 there's another one I'd be happy to hear about
3 I. And he has protested other locations so,
4 but we're trying this case.

5 **MR. MONTGOMERY:** Well, I'm -- I'm asking the witness
6 I -- I'm entitled to find what his motivation
7 is ---

8 **THE COURT:** What is your -- is there a problem with
9 the rule of evidence to base your ---

10 **MR. HARPOOTLIAN:** Relevance.

11 **THE COURT:** --- objection on?

12 **MR. HARPOOTLIAN:** Relevance Your Honor, I apologize.
13 I should have stated it first.. I swap a lot
14 but the -- the basis is relevance.

15 **THE COURT:** All right. I'll overrule the objection.

16 **MR. MONTGOMERY:** Thank you, Your Honor.

17 Q: Any other issues you've been involved with
18 relating to development, stores, retail,
19 restaurants, anything in Five Points, Mr.
20 Gottshall?

21 A: Well, I understand that the licenses for many
22 other bars are coming up in August and so we
23 may well take a look.

24 Q: Okay. That's perspective, anything in the
25 past?



1 A: No. Because as I told you from my standpoint
2 these last three years have become --- make it
3 -- is a marked increase. Now, we have met with
4 Five Points Merchants of the Five Points
5 Association a number of times and we tried to
6 see whether we could get some -- some help from
7 them, we've been unsuccessful frankly in doing
8 that. So I have been involved in -- in trying
9 to meet with them to try to get some changes.

10 Q: And I think my clients came out and were the
11 only people at the public hearing that I know
12 of in the industry that came out and supported
13 you on the 2:00 a.m. closing, were they not?

14 A: But you all have -- I think that's correct, but
15 you all have a late night bar permit, I should
16 say beer and wine permit, I think that was the
17 testimony so I don't know when you will change
18 your mind and if the 2:00 a.m. ordinance is not
19 repealed whether your people will -- what -- I
20 don't know what they're going to do, I'll --
21 that's ---

22 Q: I think if you listened to the their testimony
23 you heard them say they close at 2:00, didn't
24 you?

25 A: I --- that's right.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Q: Okay.

2 A: But I don't know they will do in the future.

3 Q: Okay. Well, and --- but they have, I think,
4 offered in fact to commit to close at 2:00 in
5 the future haven't they? As a condition of
6 their licensing, is that correct?

7 A: I think they did, but that would, that doesn't
8 change my mind concerning the problems that
9 I've described.

10 Q: Okay. And you would agree with me that a lot
11 of other things have changed over the last ten
12 years on the neighborhood, haven't they?

13 A: Well, a lot of things have gotten better, but
14 I don't -- I don't know what you mean by a lot
15 of things.

16 Q: Well, the University population has gone up 50
17 or more percent, haven't they?

18 A: Well, but you know we -- we entered into what
19 is call a cooperative agreement in writing when
20 the University, I think was in 2004 and we got
21 the University to agree to sell back to private
22 individuals properties that they owned in our
23 neighborhood. The former Psychological
24 Services Center, for example, on Pendleton
25 Street, a Columbia Cottage which used to be on



1 the corner where the Inn At USC we got them to
2 move that into the next block, we got them to
3 agree, all this is writing signed by the
4 educational foundation and the University that
5 the -- the Inn at USC for example which may
6 sometime become owned by the University but it
7 would never become, according to our written
8 agreement, student housing under graduate
9 student housing so we have -- we have worked
10 with them and they have worked with us and we
11 have delineated the line between that, between
12 the -- between them and us and they have not
13 been moving at our direction so we've had a
14 satisfactory work out there, we've not had a
15 satisfactory workout with Five Points which has
16 just gotten worse.

17 Q: Other than my clients has anybody else in Five
18 Points invited you to come down and to talk to
19 them?

20 A: Well, I -- I -- that was -- no.

21 Q: Okay. And my question before was ---

22 A: It was a nice PR job, but that's all I took it
23 as.

24 Q: --- was not -- was not about what agreement she
25 had with the University, but you'd agree with



1 me the undergraduate population of the
2 University has increased significantly over
3 that period of time?

4 A: I would agree with that and in fact I would
5 agree that the University is the economic
6 engine that drives Columbia and for Five Points
7 bar owners to prey on their students is a shame
8 and we know that the drinking at USC is far
9 worse than the SEC average and those people are
10 no slouches.

11 Q: Thank you, Mr. Gottshall.

12 A: You're welcome.

13 **MS. SHIELDS:** I don't have any questions, Your
14 Honor.

15 **MR. HARPOOTLIAN:** No further questions.

16 **THE COURT:** All right. Well, I think that before
17 you leave the stand, Mr. Gottshall, I think
18 that he is probably answered the one question
19 that I really had in my mind and Mr. Montgomery
20 it's up in his -- in his examination just now
21 as to whether there would be any condition if
22 I could issue a license with conditions that
23 would be satisfactory to the protestants.

24 A: I think not and I tell you this reason. When
25 we know the capacity of the Roost is 275 and



1 there may be as many as 200 standing outside
2 waiting to get in, you know, the -- the number
3 that we're talking about is this increasing --
4 increasing number of students that are milling
5 around the streets, on the sidewalks and so I
6 mean I ---

7 **THE COURT:** Okay. Well, let me -- let me just --
8 let me just ask it this way ---

9 **MR. HARPOOTLIAN:** Perhaps and let me suggest this,
10 if Your Honor were to indicate that they had to
11 close at 11:00 o'clock at night like most
12 restaurants do, that's when restaurants close,
13 restaurants don't -- don't -- except the Waffle
14 House, you know, they close at 11:00 o'clock.
15 If these bars had to, this bar had to close at
16 11:00 o'clock at night I think and we had maybe
17 a couple of other minor conditions, I think
18 that we could probably live with that if they
19 wanted to close at 11:00 o'clock.

20 A: Well, still ---

21 **MR. HARPOOTLIAN:** But we ---

22 A: --- there's still -- there's still a problem
23 with respect to food. I mean ---

24 **MR. HARPOOTLIAN:** Well, I ---

25 A: --- that's a big problem.



1 **MR. HARPOOTLIAN:** --- I -- I get that, she's talking
2 about -- Your Honor, of course we don't
3 stipulate that there are ---

4 **THE COURT:** No, I -- I understand. I'm just trying
5 to get to, you know, whether there's any way,
6 any middle ground here as far as answering, you
7 know, because the reality is if I deny their
8 license --

9 **MR. HARPOOTLIAN:** Right.

10 **THE COURT:** --- this is a prime location ---

11 **MR. HARPOOTLIAN:** For?

12 **THE COURT:** --- for what ---

13 **MR. HARPOOTLIAN:** Well ---

14 **THE COURT:** --- a bar.

15 **MR. HARPOOTLIAN:** --- well, no. No. The testimony
16 is before they put this bar in they're charging
17 \$2,200 a month, but the fact of the matter is
18 the market will meet the demand.

19 **THE COURT:** Right.

20 **MR. HARPOOTLIAN:** That's what's going to happen.

21 **THE COURT:** I understand, but what I'm saying is if
22 I deny their license ---

23 **MR. HARPOOTLIAN:** Right.

24 **THE COURT:** --- somebody else will be applying for a
25 license...



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 **MR. HARPOOTLIAN:** And we'll be -- and we'll be ---

2 **THE COURT:** Quite likely applying for a license in
3 that same location.

4 **MR. HARPOOTLIAN:** And we'll be standing right where
5 we are opposing it ---

6 **THE COURT:** And that will be your right and that,
7 you know -

8 **MR. HARPOOTLIAN:** And we hope the DOR before we the
9 community have to do this would do their job
10 and make sure not just that they have a stove
11 or a this or that or the other, but if they
12 want to give them a temporary license, fine.
13 Audit them every month, you know, the DOR, Your
14 Honor, I know we find this shocking, does
15 audits all the time, they could audit my taxes
16 or your taxes, I don't understand why they
17 can't audit a bar.

18 **THE COURT:** Well, the fact is that on the protestant
19 issue -

20 **MR. HARPOOTLIAN:** Yes, ma'am.

21 **THE COURT:** --- that really comes to us, the DOR
22 doesn't have much of a role in deciding the
23 suitability of the location.

24 **MR. HARPOOTLIAN:** Well ---

25 **THE COURT:** The legislature has given that to the



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 Administrative Law Court and this is the
2 process for doing that.

3 A: Well, I'll just say, Your Honor ---

4 **MR. HARPOOTLIAN:** Just wait one sec ---

5 A: Go ahead, I'm sorry.

6 **MR. HARPOOTLIAN:** You're -- you're not the lawyer, I
7 am.

8 A: I know, I know.

9 **MR. HARPOOTLIAN:** And for what you're paying me let
10 me speak. So ---

11 A: The worry you give me

12 **MR. HARPOOTLIAN:** So here's the problem, the problem
13 is they've got a checklist, you know,
14 microwave, refrigerator, conventional oven and
15 they've got 40 hot dogs in the -- in the
16 refrigerator, suitable. I wish that your
17 order, I hope your order will say that ain't
18 enough, the fact they could serve 40 hot dogs
19 doesn't comply with the constitutional
20 provision that it be primarily -- primarily a
21 place to serve food, none of these places are
22 that's why you get 275 kids in there, they're
23 not 6 to 10 percent are buying food, that's 6
24 to 10 percent is all that ate, they admit it,
25 vast majority's liquor, little bit more is



1 beer, the tiny, tiny little bit of food. And
2 let me say this to you, if the DOR, by your
3 order in this case, if you would indicate that
4 the criteria they need to examine, if they want
5 to go ahead and give them a temporary -- I mean
6 if they want to give people a temporary license
7 without a real kitchen, that's their business.
8 If they want -- if Your Honor would indicate
9 they should ensure they've got a real kitchen,
10 a stove not a microwave, a real refrigerator,
11 7 cubic feet, he -- what he testified to did --
12 but that's not really the issue, the issue is,
13 is it a restaurant or bar and anybody that
14 walks into a restaurant knows what it looks
15 like, anybody that walks into a bar, there is
16 no such thing as a bar under our law. These
17 are bars. I'm going to ask you in a moment in
18 final argument to -- to say look, enough is
19 enough. This neighborhood's had enough, this
20 isn't about what's going to come in their next

21 ---
22 **THE COURT:** Okay. We're getting far ---

23 **MR. HARPOOTLIAN:** Well, then ask your question.

24 **THE COURT:** --- we're getting into closing argument.

25 **MR. HARPOOTLIAN:** Your -- your question ---



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 **THE COURT:** My question was would there be
2 conditions ---

3 **MR. HARPOOTLIAN:** I would recommend to my clients
4 that if you order, if this license that they
5 can -- the condition is they shut down at 11:00
6 o'clock every night just like a restaurant then
7 we could probably -- I mean do y'all want to do
8 that?

9 **MR. MONTGOMERY:** I don't know. I'd have to talk to
10 my clients obviously.

11 **MR. HARPOOTLIAN:** Right. Right.

12 A: And -- and I -- I just have to say, you know,
13 I -- we've tried to organize those who are the
14 protestants and I've been in contact with
15 April, I've been in contact with the other
16 people who filed protests. A lot of people
17 have the same experiences that she does who
18 live closer and Bill Lamb did so I -- I can't
19 just make a decision for all of them either,
20 but it seems to me this location is tainted by
21 it's history and I don't mean to play lawyer,
22 but the -- the case does seem to suggest that
23 historically you can take a look at what's
24 going on there historically and historically
25 this has been a problem and it continues to be



1 a problem according to the police because they
2 now have self generated calls for services
3 coupled with the evidence of how many people
4 standing, are standing outside, I don't know
5 that having at 10:30 having 200 people standing
6 outside is a good thing.

7 **MR. HARPOOTLIAN:** Well, if they shut at 11:00, Tom,
8 and cancel beer and wine, I mean I'm talking
9 about shut -- no beer and wine, no liquor after
10 -- after 11:00.

11 **THE COURT:** Okay. I understand your -- I understand
12 your position.

13 A: Thank you.

14 **THE COURT:** That answers ---

15 **MR. HARPOOTLIAN:** We might could sell that.

16 **THE COURT:** --- that answers my question.

17 **MR. HARPOOTLIAN:** There'd have to be an agreement
18 and we look for every loophole they try to
19 create in that agreement, but again Your Honor
20 ---

21 **THE COURT:** No, I'm not asking for -- for an
22 agreement, I was just asking for information --

23 -

24 **MR. HARPOOTLIAN:** Based on what you've heard, bad
25 things happen --



1 **THE COURT:** --- as to whether or not there would be
2 something that could be done short of not
3 allowing the a license.

4 **MR. HARPOOTLIAN:** But they can -- I don't think
5 their business allows them to survive serving
6 the food.

7 **A:** Well, I think their history is tainted with
8 this, with the --

9 **MR. HARPOOTLIAN:** I'm -- I'm done with him and
10 they're done with him.

11 **THE COURT:** You can step down.

12 **MR. HARPOOTLIAN:** And so I guess it's final argument
13 and it's Mr. Montgomery's time.

14 **THE COURT:** All right. So do you guys want to give
15 a brief closing statement or would you like to
16 submit brief's in lieu of closing statements.

17 **MR. HARPOOTLIAN:** Let me check with the peanut
18 gallery.

19 **MS. SHIELDS:** The Department would like ---

20 **MR. HARPOOTLIAN:** Brief.

21 **MS. SHIELDS:** --- to make ---

22 **MR. HARPOOTLIAN:** Brief.

23 **MS. SHIELDS:** --- a closing ---

24 **MR. HARPOOTLIAN:** Brief.

25 **MS. SHIELDS:** --- statement ---



1 **MR. HARPOOTLIAN:** Brief.

2 **MS. SHIELDS:** --- it will be brief.

3 **THE COURT:** Okay. The Department wants to make a
4 closing statement, we're going to hear closing
5 statements.

6 **MR. HARPOOTLIAN:** Well, we're going to do a closing
7 statement and brief, right?

8 **THE COURT:** Yes.

9 **MR. HARPOOTLIAN:** Okay.

10 **THE COURT:** You will be allowed ---

11 **MR. HARPOOTLIAN:** Does that affect your -- no? You
12 still want a closing statement? Mike, you want
13 to wait ---

14 **THE COURT:** She may not want to do a brief.

15 **MR. HARPOOTLIAN:** What?

16 **THE COURT:** She might not want to do a brief.

17 **MR. HARPOOTLIAN:** Oh, she's not going to do a brief?

18 **THE COURT:** I didn't say she wasn't, I said she may
19 not.

20 **MR. HARPOOTLIAN:** Let me talk to Mr. Montgomery for
21 a second, I might do ...

22 **MR. MONTGOMERY:** Mr. Harpootlian and I are happy to
23 allow the Department to close and we're going
24 to both agree to waive our closing and save you
25 the verbal assault of that and simply provide



1 you with the brief on the 14th as we discussed
2 it.

3 **MR. HARPOOTLIAN:** You're probably going to try to
4 eat a meal in about an hour and a half and we
5 don't want to affect your appetite.

6 **THE COURT:** Oh, well, you know, y'all act like this
7 has been torture for me. I thoroughly enjoyed
8 it. I love having great lawyers in my
9 courtroom, but I'm happy for you to waive your
10 closings and then for you to collect your
11 thoughts in the form of a brief and get that to
12 me by March the 14th, the Department may also
13 submit a brief by the 14th if you'd like ---

14 **MR. HARPOOTLIAN:** Okay. So ---

15 **THE COURT:** --- let's here from the Department in
16 closing.

17 **MR. HARPOOTLIAN:** Mums the word from -- this is the
18 last word Mr. Montgomery and I will have and
19 after she speaks one of us will have to say
20 something so have the last word.

21 **THE COURT:** I expect no less, Mr. Harpootlian.

22 **MR. HARPOOTLIAN:** Thank you.

23 **CLOSING STATEMENT BY MS. SHIELDS:**

24 **MS. SHIELDS:** I just feel like -- may it please the
25 court, Your Honor, that the Department's



1 position at then end of all this can be briefly
2 and more openly put verbally than in a brief.
3 So as Your Honor's aware the Department's here
4 to ensure that the applicants here today have
5 met the statutory requirements necessary to
6 possess a beer and wine permit and a on
7 premises consumption restaurant with a drink
8 license. As the court mentioned earlier the
9 court has heard a great deal of testimony about
10 the suitability of this location and it is
11 within the court's discretion on whether to
12 rule on that suitability or whether to rule
13 it's suitable or not. One of the statutory
14 requirements however that the department is --
15 is suppose to look into or make sure that is
16 met is that all of the principals are disclosed
17 on the application. We heard testimony about
18 Eric Thompson and Colin Ellege that testimony
19 was given that these individuals hold the
20 titles of general managers, that they have
21 control of the day-to-day operations, that
22 they're there when these applicants are not
23 there, that they count money, they count
24 inventory, they can fire employees and Your
25 Honor, the, one of the definitions of a

**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 principal under 61.2.100.2(h) is any employee
2 who has day-to-day operational management
3 responsibilities for the business or entity and
4 we fill that the evidence presented meets that
5 definition and so any principals are deemed the
6 applicant so that's why we require that they be
7 listed on the application because we have to do
8 our own investigation, we have to do a
9 background check, we have to make sure that
10 they meet other statutory requirements. So
11 based on this evidence we feel that there are
12 a couple of undisclosed principals,
13 particularly those, Eric Thompson and Colin
14 Ellege. Further in regards to Mr. Ruonala's
15 testimony that was given yesterday it -- it
16 appears that his interest in the entity has
17 increased since the original application was
18 filed meaning that someone else's interest has
19 decreased, I'm presuming Ms. Wells' interest.
20 When that happens we don't require that they
21 send in the whole new application we require,
22 we just require that they submit a new
23 operating agreement and a new consent and
24 waiver form for all the individuals whose
25 interest have changed and again, we would



1 submit that that need to occur to meet the
2 statutory requirements. So basically in
3 closing, Your Honor if you determine that this
4 location is suitable we would ask that the
5 matter be remanded to the Department so that we
6 can receive that new operating agreement and
7 new consent and waiver forms for the interest
8 that have changed in this entity and also to
9 look into to -- to make sure that the statutory
10 requirements are met when it comes to Mr. Eric
11 Thompson and Colin Ellege. That's it, Your
12 Honor. Thank you.

13 **THE COURT:** All right. I will look forward to
14 receiving briefs from Mr. Montgomery and Mr.
15 Harpootlian by March the 14th.

16 **MR. HARPOOTLIAN:** At 5:00 p.m.?

17 **THE COURT:** At 5:00 p.m. would be -- 4:59 or
18 midnight, any of those. If it comes in at 5:00
19 I'm probably not going to look at it until the
20 next morning so -- but y'all can submit those
21 briefs. Is there anything else before we
22 conclude?

23 **MR. MCCABE:** Your Honor, I'm just curious as to the
24 -- the hearing in regards to the Rooftop and
25 when is that going to be scheduled?



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 **THE COURT:** Oh, thank you. I was completely
2 forgetting that.

3 **MR. MCCABE:** You're welcome.

4 **THE COURT:** I'm open to suggestions.

5 **MR. HARPOOTLIAN:** Your Honor, we -- we would not
6 oppose waiting for your decision on this
7 facility before we go forward with the hearing
8 and that'll give us some warning perhaps
9 enlightenment, both sides, they may see it as
10 something that may, changes their position, we
11 may see something that changes our position.
12 So -

13 **THE COURT:** Okay. Does that ---

14 **MR. HARPOOTLIAN:** --- I don't know.

15 **THE COURT:** --- would that be admissible to everyone
16 for me to issue an order in this case and maybe
17 on my end at the point that I do that maybe
18 have Robin email all of you for your
19 availability for a hearing on the other matter?

20 **MR. HARPOOTLIAN:** Sure.

21 **MR. MCCABE:** That is admissible to the Department.

22 **MR. MONTGOMERY:** It's fine with us, Your Honor.

23 **MS. SHIELDS:** As long as, I think th only issue on
24 our side, are they going to continue, the
25 Rooftop, continue to operate until whenever ---



1 MR. HARPOOTLIAN: Yes.

2 THE COURT: Yes.

3 MS. SHIELDS: Well, the -- and the only reason I
4 preface it as an issue is I think we may need
5 at least something in writing, an email or
6 something, so that we can ensure that on our
7 end.

8 THE COURT: Okay. I'll look back at my order, I
9 think my order said until I issued a decision
10 ---

11 MR. HARPOOTLIAN: In both cases.

12 MS. SHIELDS: I apologize, Your Honor, you're
13 correct.

14 THE COURT: So in that case that should cover it.

15 MR. HARPOOTLIAN: Correct.

16 MS. SHIELDS: Correct. I apologize.

17 THE COURT: In some of the orders in the past I've
18 done it differently, but that's my
19 recollections and I'll ---

20 MR. MCCABE: I believe you're correct, Your Honor.

21 THE COURT: --- look back and -- and make sure of
22 that, thank you.

23 MR. MONTGOMERY: Your Honor, I can confirm that,
24 that's correct.

25 THE COURT: Okay. All right.



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

1 MS. SHIELDS: I just wanted to make sure.

2 THE COURT: Anything else I've forgotten?

3 MR. HARPOOTLIAN: I don't think so Your Honor.

4 THE COURT: All right. Thank you..

5 MR. HARPOOTLIAN: Thank you, Your Honor.

6 MR. MONTGOMERY: Thank you, Your Honor.

7 MS. SHIELDS: Thank you, Your Honor.

8 (There being nothing further, the administrative
9 hearing concluded at 5:30 p.m.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896