

ADULT CABARETS
FACTUAL RECORD

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8. City of Phoenix Police Department Report No. 51014042, dated June 19, 1995, *Johnny O's Show Club*.
9. City of Phoenix Police Department Report No. 51071068, dated June 28, 1995, *Donna Kay*.
10. City of Phoenix Police Department Report No. 60695163, dated April 29, 1996, *Johnny O's Show Club* and *The Blue Moon*.

BEFORE THE LICENSE APPEAL BOARD

In re: The License Revocation)
)
Proceedings of Eve's Tease and)
)
The Body Shop,)
)
)
)
Licensees/Respondents.)
)

LICENSE APPEAL BOARD HEARING

RE: EVE'S TEASE AND THE BODY SHOP

VOLUME I

Phoenix, Arizona
April 24, 1997
6:55 p.m.

PREPARED FOR:
JAMES H. HAYS

(COPY)

PREPARED BY:
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1 THRU 6

I N D E X

1

2 **WITNESS: Thomas Robert Kulesa**

3 Direct Examination by Mr. Hays on page 10

3 Cross-Examination by Mr. DiCavalcante on page 38

3 Redirect Examination by Mr. Hays on page 77

4 Recross-Examination by Mr. DiCavalcante on page 79, 122

5 **WITNESS: William Mellinger**

5 Direct Examination by Mr. Hays on page 87

6 Cross-Examination by Mr. DiCavalcante on page 97

6 Redirect Examination by Mr. Hays on page 108

7 Recross-Examination by Mr. DiCavalcante on page 109, 123

8 **WITNESS: Donald Casey**

8 Direct Examination by Mr. Hays on page 110

9 Cross-Examination by Mr. DiCavalcante on page 117

10 **WITNESS: Jessica Alcantar (phonetic)**

10 Direct Examination by Mr. DiCavalcante on page 125

11 Cross-Examination by Mr. Hays on page 132

12 **WITNESS: Tasha Kennison (phonetic)**

12 Direct Examination by Mr. DiCavalcante on page 147

13 Cross-Examination by Mr. Hays on page 152

13 Redirect Examination by Mr. DiCavalcante on page 160

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15 **WITNESS: Robert Matthews**

15 Direct Examination by Mr. DiCavalcante on page 162

16 Cross-Examination by Mr. Hays on page 166

16 Redirect Examination by Mr. DiCavalcante on page 170

17 **WITNESS: Gregory A. Welling**

18 Direct Examination by Mr. DiCavalcante on page 171

18 Cross-Examination by Mr. Hays on page 180

19 Redirect Examination by Mr. DiCavalcante on page 186

E X H I B I T S

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21

22 Exhibits 1 and 2 were marked on page 4

23 Exhibits 3, 4, 5 and 6 were marked on page 124

24 Exhibit 7 was marked on page 178

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LICENSE APPEAL BOARD HEARING, VOLUME I,

commencing at 6:55 p.m., on April 24, 1997, 200 West Washington,
Phoenix, Arizona 85003, before Sandy Marruffo, a Notary Public
in and for the County of Maricopa, State of Arizona.

A P P E A R A N C E S

FOR THE CITY OF PHOENIX

Office of the City Attorney
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BY: Mr. James H. Hays

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BOARD MEMBERS

Larry Snow
Boyd Heckel
Dempster Jackson
Jason Morris

ALSO PRESENT

Ida Alonge, Business License Services Clerk
Lorraine Hunt, Business License Services Clerk

1 You also have, pursuant to Chapter 19, Article 2 I believe, the
2 ability to reduce the revocation to suspensions of not more than
3 60 days. And my remarks in the earlier case on that would apply
4 here. So those are your options.

5 I have a fair bit of evidence to go through. I'd like
6 you to indulge me as I do it. And when I'm done, I would like
7 the same opportunity, obviously, to summarize my remarks. And
8 I'll apologize in advance for what I think will be the length of
9 these cases. Hopefully it will be expedited somewhat by
10 combining the two and I'll do the best I can to move it a long.

11 MR. SNOW: We are here for the duration.

12 Gentlemen, the Appellants may have an opportunity to
13 make their opening remarks.

14 MR. DICAVALCANTE: Mr. Chair, I am not going to make
15 an opening statement. In lieu thereof I will just request that
16 you all read the cover to the memorandum I submitted.

17 MR. SNOW: Okay. Then the time now is for the City to
18 begin presenting their case.

19 MR. HAYS: Thank you, Mr. Chair.

20 City's first witness is a police detective,
21 Detective Kulesa. I'll ask him to identify himself for the
22 record.

23 DIRECT EXAMINATION

24 BY MR. HAYS:

25 Q. Detective, state your full name for the record.

1 A. My name is Thomas Robert Kulesa, last name is
2 K-U-L-E-S-A.

3 BY MR. HAYS:

4 Q. And how are you employed?

5 A. I'm a Detective with the City of Phoenix Police
6 Department.

7 Q. And are you in the Vice enforcement division?

8 A. Yes, sir, I am.

9 Q. How long have you been employed there?

10 A. I've been in the Vice enforcement unit currently
11 for approximately six months, but in, like, 1986, 1987 I served
12 in the Vice unit for approximately a year and a half.

13 Q. All right. Are you acquainted with two businesses
14 known as Eve's Tease and The Body Shop?

15 A. Yes, sir, I am.

16 Q. And are you acquainted with the address for those
17 two?

18 A. Yes. Eve's Tease is located at 3737 West Indian
19 School in Phoenix, Arizona. The Body Shop is located at 3790
20 West Grand Avenue in Phoenix, Arizona.

21 Q. And would you explain to the Board, please, what
22 your role was in connection with those investigations?

23 A. I, along with other members of my Vice enforcement
24 unit, the India 51 squad, which is the day shift squad, we
25 conducted a lengthy undercover investigation at both The Body

1 Shop and Eve's Tease locations.

2 Q. All right. And do you have the dates that those
3 investigations were performed? I'm talking now about work done
4 at the business, as opposed to in your office or something like
5 that.

6 A. The dates of the undercover portion of the
7 investigation were approximately September 16th of 1996 until
8 approximately November 30 of 1996.

9 Q. And that's for both businesses; is that right?

10 A. Yes, sir, they were simultaneous investigations.

11 Q. All right. I need the specific dates that you
12 were at both businesses. And, if you need to refer to your
13 report for that, go ahead. Tell us which dates you were at
14 which businesses in the undercover capacity.

15 A. On September 16th, 1996, I went to the location of
16 The Body Shop on Grand Avenue along with Detectives Bill White,
17 Bill Mellinger, Don Casey, and Greg Mesa.

18 On September 23rd, 1996, two other detectives of my
19 squad, Terry Sherrard and Zeke Columber, went to The Body Shop
20 location.

21 On November 26 Detective Don Casey and I went to The
22 Body Shop location.

23 On October 1st Detective Casey and I again went to The
24 Body Shop location.

25 On October 7th Detective Mellinger and I went to The

1 Body Shop location.

2 October 14th Detective Mellinger and I went to The Body
3 Shop location.

4 October 28th Detective Mellinger and I went to The Body
5 Shop location.

6 November 4th Detective Casey and I went to The Body Shop
7 location.

8 November 5th Detective Mellinger, Detective Casey, and I
9 went to The Body Shop location.

10 November 6 Detective -- on November 6th
11 Detective Mellinger and I went to the Eve's Tease location.

12 Q. All right. Did that complete The Body Shop
13 visits?

14 A. No. There was two other times at The Body Shop.

15 November 18th Detective Mellinger, Detective Casey, and
16 I went to The Body Shop location.

17 November 30th Sergeant Shamley, Detective Mellinger, and
18 I went to The Body Shop location.

19 As far as the Eve's Tease location, October 16th
20 Detective Mellinger, Detective Casey, and I went to the Eve's
21 Tease location.

22 October 28th Detective Mellinger and I went to the Eve's
23 Tease location.

24 And November 6th Detective Mellinger and I went to the
25 Eve's Tease location.

1 Q. Let's start with Eve's Tease, okay? And we'll
2 talk about that business first in some detail and then we'll
3 move to The Body Shop; is that okay?

4 A. Yes, sir.

5 Q. Describe for the Board how Eve's Tease appears,
6 the exterior of the building, the parking lot, for someone at
7 the door, that sort of thing. Describe for them the exterior
8 appearance of this business.

9 A. The business is located at 3737 West Indian School
10 Road. It's located on the south side of Indian School Road.
11 And the parking lot for the business is directly off of Indian
12 School Road, which is -- the parking lot is located on the north
13 side of the building. The building is approximately, in my
14 guesstimate, a hundred feet by maybe fifty or so, and that's an
15 approximation. The front door to the business is also located
16 on the north side of the business.

17 On our occasions that we went there, if you go to the
18 front door of the business during the daytime hours, we did not
19 encounter any type of doorman or anything like that. If you go
20 to the business during the nighttime hours, there is, from our
21 experiences, usually a doorman seated at the front door.

22 Upon entering the business you are in, like, the little
23 foyer area and directly off to your left are the bathrooms.
24 Directly straight ahead is a small bar-type set up. It is set
25 up like a bar but there's no alcohol served there. Off to the

1 left of the bar, which would be to the east, there is a small
2 little dance area set up with a few tables and chairs and that
3 is referred to in our experience as the topless section.
4 Directly to the east of there, a little bit more, is a small
5 little shower and it's set up just like a shower would be inside
6 your home. It's -- it looks like a fiberglass-type set up.
7 I've never been close to it to see if it's actually fiberglass,
8 but that's what it looks like.

9 Now, again, standing in the foyer area, if you look off
10 to your right, which would be to the west, there is a large
11 table setting, numerous tables and chairs which is where the
12 patrons of the business would sit.

13 Directly west of there, located against the west wall of
14 that room is a peninsula-type stage. The stage is
15 approximately, oh, about fifteen feet by approximately twenty
16 feet or so, and again that's an approximation. The stage is
17 approximately 30 inches, something like that, above the floor
18 level. There's seats positioned directly at the stage around
19 the peninsula-type stage for patrons to sit. There is no
20 railing at the stage enabling the girls or dancers to dance
21 directly up to the customers.

22 In our experiences at the business, directly west of
23 that stage is another small room. There is a curtain separating
24 that room from the main patron area. And on that at the time we
25 were there, there was a sign which basically said something to

1 the effect of "No admittance."

2 Now, in our experiences at that room, that room was used
3 as a private, totally nude dance area. When you enter that
4 room, the room is a long narrow room which has a -- it's -- the
5 narrow section goes from the north to the south. The room is
6 approximately eight feet wide and approximately twenty or so
7 feet long. Along the east side of this room, as you're walking
8 down the narrow section, if you were walking in a southerly
9 direction, is just a pathway which is approximately a third of
10 the room.

11 Off to the right side of the room the room is divided
12 into four cubicles approximately six foot by six foot in size.
13 Each one of these cubicles appeared somewhat identical on the
14 inside, and what that entailed was each separate cubicle which
15 was separated from each other by a wall, but there was no wall
16 leading into the small pathway. There is a stage which is
17 approximately two feet or so off the ground and the stage is
18 approximately four foot by four foot in size. Directly next to
19 the stage, which would be about a foot away from it, is a table
20 and chair for the patrons to sit.

21 Again, each room is basically identical. And also
22 located in this room which would be along that long pathway on
23 the east side, at the time that we were there, each separate
24 cubicle had a video-type camera pointed down at the stage area
25 which enabled the management or employees, whoever was at the

1 bar area when you first came in, to be able to view on small
2 monitors what was occurring on the stages in those small
3 cubicles.

4 Q. Can you give the Board some idea of the interior
5 dimensions of this business excluding the rooms behind the
6 curtain?

7 A. When you walk into the foyer area -- And again I
8 apologize if I'm wrong, they are approximations through my
9 visual observations. When you walk into the foyer area, it's
10 approximately ten by ten foot or so. The main patron area,
11 which would be off to the right, off to the west, is
12 approximately twenty feet in width, which would be north to
13 south, and in length approximately forty feet, something like
14 that. The bar area, again, if you're standing in the foyer, the
15 bar area is approximately ten foot by ten foot. The section off
16 to the right, which was referred to us as the topless dance
17 area, approximately maybe fifteen feet by twenty-five feet.

18 Q. Now, of the times you entered this business which
19 you related earlier, you entered in an undercover capacity; is
20 that right?

21 A. Yes, sir.

22 Q. And to your knowledge did anyone at the business
23 ever become aware of the fact that you were, in fact, a Phoenix
24 Police Detective?

25 A. Not to my knowledge, no, sir.

1 Q. Would you describe for the Board, please, the
2 nature of the entertainment? Without getting into specifics,
3 give the Board the nature of the entertainment. For example,
4 I'd like you to talk about the performers, their number, how
5 many there are, where they perform, that sort of thing.

6 A. As far as Eve's Tease is concerned, we were there
7 on I believe three occasions. And during those three occasions,
8 we were there during mostly afternoon-type hours, early
9 afternoon. And on one occasion we stayed until the early
10 evening hours. During that time, in the earlier afternoon hours
11 we observed approximately four, maybe five dancers. As the
12 nighttime hours, the evening hours, rolled around on occasion
13 that we were there during the evening, there were approximately
14 six dancers.

15 When you go into the main patron area, the dancers that
16 you observe are basically clad in costume-type outfits, some in
17 bathing suit-type outfits, some in undergarment-type outfits,
18 some in lingerie-type outfits. They all vary.

19 When the dancers are up on the stage, through our
20 observations at the time we were there, these dancers performed
21 either two or three dances. The first dance being clad in
22 whatever costume that they were out in the patron area with, the
23 second dance, what the dancer would do is take her top off and
24 do the second dance topless, the third dance, since this is a
25 totally nude establishment, the dancer would strip completely

1 nude and do the third dance nude.

2 As far as the two semi-private areas, as far as the
3 topless section, a dancer in there would give you a dance
4 topless. And the totally nude section, which would be the room
5 off to the west, would be a totally nude dance.

6 Q. Do you happen to know what the hours of operation
7 were for Eve's Tease?

8 A. I believe they were approximately -- approximately
9 11 o'clock in the morning till approximately 3:00 a.m.,
10 something like that. I don't know if I'm exact in those hours,
11 but they were approximately somewhere around there.

12 Q. Was it your understanding that this business was
13 open to the general public?

14 A. Yes, sir.

15 Q. Were there any signs posted in connection with
16 either what would be offered inside the business or what would
17 be permitted of performers or customers that you noticed?

18 A. There is a sign outside. I can't recall. It's
19 something to the effect of that it's a nude establishment, but I
20 cannot recall exactly what it said.

21 Q. Okay. The occasions you were in the business, can
22 you give the Board the range of patrons that were in there,
23 their number?

24 A. We were in there, again, on approximately three
25 occasions and during that time, during the afternoon hours it

1 ranged as far as we were the only patrons in there for an hour
2 or so at a time. And I think the most we saw in there,
3 excluding the two or three detectives that were in there, were
4 approximately ten patrons and that was towards the evening
5 hours. It appeared to us that towards the evening hours more
6 and more -- towards the end of the workday and the early evening
7 more and more patrons would come in.

8 Q. How many non-dancers would be working there? Do
9 you have a range on that?

10 A. From our experiences, there appeared to be either
11 two or three non-dancers and that would include the waitress who
12 was -- through the times that we were there, we never observed
13 dancing, the male stationed at the door as a doorman-type
14 person, and also the management which was usually behind the bar
15 area.

16 Q. Would you describe for the Board, please, the
17 interaction that you had generally with the performers?

18 A. We, through our experiences and -- we -- The
19 dancers would constantly intermingle both with us and with other
20 patrons that we observed. When the dancers are not dancing on
21 the stage, they are constantly going around sitting with the
22 different patrons talking to the patrons for a while, asking the
23 patrons if they would like to purchase additional private,
24 semi-private dances.

25 In addition to that, the waitress that we encountered on

1 our times there would also, in addition to serving us our drinks
2 which were nonalcoholic because they cannot serve alcohol at
3 this establishment, this waitress would also come around talking
4 with us, talking with the other patrons asking the patrons if
5 they wished to purchase dances. To our experiences all the
6 off-stage dances, which would be the totally nude or topless,
7 were arranged through the waitress.

8 Q. Let's talk about payment. Did it cost something
9 to get into the business?

10 A. Yes. On the occasions that we were there, we,
11 along with additional patrons that we observed, had to pay a
12 cover charge which is an entrance fee of \$5 to gain entrance
13 into the business.

14 Q. Was there a minimum number of drinks you had to
15 buy?

16 A. Yes. We were advised on occasion that we went
17 there that you had to purchase a minimum of one drink which was
18 \$3.

19 Q. Did it cost anything to watch the dancers dance on
20 the main stage?

21 A. There was no required payment for the dancers on
22 the main stage. It is customary to tip these dancers, but it
23 was not required.

24 Q. What about the performances in the topless
25 section, how much did those cost?

1 A. We were -- We were advised through our experiences
2 as far as the prices for the topless dances and the prices for
3 the totally nude dances were identical during the time that we
4 were there. And the prices for these would be a 15-minute
5 dance, however many songs that would include, for a price of
6 \$35. A half-hour dance would cost \$50, and a one-hour dance
7 would cost \$100.

8 Q. What about tipping? Was that customary, expected?
9 What was the nature of the tipping as you understand it?

10 A. There is no required tip to be paid to the dancers
11 here, but through our experiences, past experience as well as
12 our experiences in this establishment here, it is customary to
13 give the dancer some type of tip. And that is -- The amount is
14 usually left up to the patron or the patron and dancer
15 negotiating.

16 Q. Describe the lighting in this business for the
17 Board, please.

18 A. The lighting is somewhat dimmer than your outside
19 daylight so it takes a few -- maybe a minute or so to adjust to
20 the change when you come in from the bright sunlight. But the
21 lighting in there is very adequate to clearly see what is going
22 on in the business, maybe a little bit, you know, dimmer than
23 what we have here. But as far as the different areas, if you
24 were seated to the back of the patron area, it's a little bit
25 dimmer than if you were seated up by the stage. The stage area

1 in this establishment is very well lit. There are lights
2 directly at the stage which would enable anyone in the
3 establishment to clearly view what is going on in the stage
4 without any difficulty.

5 Q. Is there music playing?

6 A. Yes, sir, there is. The music in this business
7 was through a jukebox which was located next to the stage.

8 A. Do they ever have a band in there?

9 A. We never observed a band in there. I don't know
10 if they do or not, but we never observed one.

11 Q. Do they have any television monitors there?

12 A. At the time that we were in there, they had the
13 monitors which were located behind the bar, but those monitors
14 were specifically for viewing the activity in the totally nude
15 room. Other than those, I did not observe any other television
16 monitors.

17 Q. Was there at least one live performer -- By "live
18 performer" I mean an actual performing human being as opposed to
19 someone on television. Was there at least one live performer on
20 each of the occasions in which you visited the business who was
21 performing while exposing her genitals, anus, and naked breasts?

22 A. Yes, sir. On each occasion there was at least one
23 and on each occasion that we were there, a minimum of three.

24 Q. Was there at least one live performer on each of
25 the occasions in which you visited the business who was

1 performing masturbation either actual or simulated?

2 A. Yes, sir, there was.

3 Q. Was there at least one live performer on each of
4 the occasions in which you visited the premises who was fondling
5 or otherwise erotically touching either of her genitals, pubic
6 region, buttocks, anus, or breasts?

7 A. Yes, sir, there was.

8 Q. Are you acquainted with the City's sexually
9 oriented business ordinance?

10 A. Yes, sir.

11 Q. Are you acquainted with the ordinance's definition
12 of adult cabaret?

13 A. Yes, sir.

14 Q. Did you form a conclusion at any point during your
15 investigation as to whether or not this business qualified as an
16 adult cabaret under the ordinance?

17 A. Yes, sir. My conclusion was that this
18 establishment through our observations did fit the definition of
19 an adult cabaret.

20 Q. Did you check with City Licensing to see if, in
21 fact, the business had an SOB license?

22 A. Yes, sir, we did.

23 Q. What did you learn?

24 A. On October 21st I believe it was --

25 Q. Of '96?

1 A. Of 1996 Detective Casey and I did go to the City
2 Licensing for the City of Phoenix and we did find that this
3 establishment did, in fact, have a sexually oriented business
4 license with the licensees listed as Gregory Welling and
5 Anita Welling.

6 Q. Are you acquainted with the City's notice of
7 intent to revoke license for this business?

8 A. Yes, sir.

9 Q. Okay. What I'm going to ask you to do is to go
10 through this with me and for those incidents listed of which you
11 have personal knowledge, ask you to describe for the Board what
12 you saw. Okay? Before I do that, why don't I offer these for
13 just this business at the moment, the notice of intent to revoke
14 license.

15 Does the licensee have a problem?

16 MR. DICAVALCANTE: No objection.

17 MR. HAYS: Beg your pardon?

18 MR. DICAVALCANTE: No objection.

19 BY MR. HAYS:

20 Q. Detective, let's start at the first violation
21 which is a patron -- the allegation now is that a patron touched
22 the breast, buttocks, or genitals of an employee, section
23 10-148(A)(2) -- I'm sorry. No. In this case, I beg your
24 pardon. "Patron placed money on the person or in or on the
25 costume of an employee;" that's 10-148(A)(3).

1 Now, did you, yourself observe any violations of that
2 section?

3 A. Yes, sir, I did.

4 Q. Okay. Would you identify them, if you would,
5 please, on the notice and describe them for the Board?

6 A. They are listed under "a patron placed money on
7 the person or in or on the costume of an employee." As far as
8 sub-section A, on October 16th, 1996, I was in the establishment
9 with Detective Mellinger and Detective Casey. At that time I
10 observed Detective Mellinger approach the stage during the time
11 that a dancer who was later identified as Sheri Katrina Allison
12 was dancing on the stage. Detective Mellinger was then allowed
13 by Miss Allison to place a dollar bill in a garter belt that she
14 was wearing while she danced on the stage, the dollar bill being
15 a tip.

16 On October 16th, 1996, during the same time period, I
17 observed a dancer who was later identified as
18 Karen Rachel Parker to be dancing on the stage, at which time I
19 approached the stage. She was in a totally nude state and I
20 gave her a one dollar tip, and during this time Miss Parker took
21 both hands, placed them on the outside of her breasts and walked
22 towards me and squeezed her breasts together to take the dollar
23 bill from my hand.

24 On October 28th, 1996, Detective Mellinger and I were in
25 Eve's Tease at which time I observed a dancer later identified

1 as Celeste Ruth Sheret take a dollar bill as a tip by placing
2 her hands on the outside of her naked breasts as she was dancing
3 on the main stage to remove the dollar bill from the patron's
4 hand.

5 On October 28th, 1996, I identified a dancer later
6 identified as Patricia May Holmes to be dancing in a totally
7 nude state on the main stage, at which time I observed her take
8 a dollar bill tip by placing her hands on the outside of her
9 naked breasts and squeezing her breasts together to remove the
10 tip from the patron's hand.

11 On November 6th, 1996, I observed a dancer dancing
12 totally nude on the main stage. This dancer was later
13 identified as Kelley Ann Hocking. I observed Miss Hocking take
14 a dollar bill from my hand by placing her hands on the outside
15 of her naked breasts and removing the bill from my hand by
16 squeezing her breasts together.

17 On November 6th, 1996, I observed a dancer to be dancing
18 on the main stage. The dancer at this time is only known to us
19 with a stage name of Sexy. I observed this dancer remove a
20 dollar bill from my hand by placing her hands on the outside of
21 her breasts and squeezing her breasts together to remove the
22 dollar bill.

23 On November 6th, 1996, I observed a dancer later
24 identified as Ronda Widdison to be dancing on the main stage, at
25 which time I observed her to remove a dollar bill from a

1 patron's hand by placing her hands on the outside of her naked
2 breasts and squeezing her breasts together to remove the bill.

3 November 6th, 1996, a dancer only known to us at this
4 time with a stage name of Summer, dancing totally nude on the
5 main stage, removed a dollar bill from a patron's hand by taking
6 her hands, placing them on the outside of her naked breasts,
7 squeezing her breasts together to remove the bill.

8 November 6th, 1996, a dancer only known to us with a
9 stage name of Sandy, dancing totally nude on the main stage,
10 removed a dollar bill from a patron's hand by taking her hands,
11 placing them on the outside of her naked breasts and squeezing
12 her breasts together to remove the bill.

13 On some of these occasions, the patrons that I observed
14 to be paying the dollar tips were some of the other detectives I
15 was with myself and some of them were other patrons in the
16 establishment.

17 Q. You'll note on the last four listed here that it's
18 alleged that more than one patron placed the dollar bill between
19 the naked breasts of the dancer.

20 Would it be your testimony that the activity listed here
21 occurred on more than one occasion on these dates?

22 A. Yes, sir, on those last four the date would all be
23 on November 6, 1996.

24 Q. All right. Let's move on to the next violation.
25 This one is that, "The licensee manager or an employee has

1 knowingly allowed prostitution on the premises or that a
2 licensee manager or an employee has knowingly allowed any act of
3 sexual intercourse, oral sexual contact, or sexual contact,
4 including masturbation, to occur in or on the licensed
5 premises."

6 Keeping those two sections in mind, can you identify for
7 the Board any violations of those sections of your own personal
8 knowledge giving the dates of the violation, please?

9 A. Yes, sir. On October 16th, 1996, I observed a
10 dancer later identified as Kelley Ann Hocking to be dancing
11 totally nude -- nude on the main stage. During this dance, on
12 numerous occasions during the song I observed Miss Hocking to
13 take her hand, place the tips of her first two fingers on her
14 vaginal area actually coming into contact with her vagina and
15 for a few seconds on each occasion Miss Hocking would actually
16 rub her vaginal area with her hand during the dance.

17 On October 16th, 1996, I did receive a private dance as
18 it's called which would be in a totally nude area from a dancer
19 who was later identified as Kelley Ann hawking. For this dance
20 I paid a \$35 fee which would be a 15-minute dance. In addition
21 to this \$35 fee, after the dance was performed I gave Miss
22 Hocking a \$20 tip which was negotiated between Miss Hocking and
23 myself. Prior to the dance I asked Miss Hocking if during the
24 dance she would be masturbating herself and she replied that she
25 would if that's what I wanted for my dance money.

1 During the dance, which was a 15-minute dance,
2 Miss Hocking and I went into the totally nude section, at which
3 time Miss Hocking went up onto one of the small stages which is
4 located in one of the cubicles. I sat in the chair next to the
5 stage. During that 15-minute dance Miss Hocking made numerous
6 and various positions on the stage. During this time, almost
7 the entire time, Miss Hocking was masturbating herself. While
8 masturbating herself, Miss Hocking -- and I apologize for the
9 language, Miss Hocking asked me, quote, You want to see me come,
10 don't you?" And after the dance, after I gave Miss Hocking a
11 \$20 tip, Miss Hocking took the hand -- without my knowledge,
12 took the hand that she had masturbated herself and touched me on
13 my hand and advised me that I could smell that later.

14 During this dance also, the person who was at the bar,
15 which during our observations -- he was later identified as
16 Timothy Wheeler. During this time, during our observations of
17 Timothy Wheeler, he appeared to us through everything he was
18 doing, to be the on-duty manager at that time. The actions he
19 was doing was he was instructing -- he would greet the customers
20 at the door, advise them of the cover charge, advise them of the
21 drink minimum. He would also advise the waitress when to go up
22 to each customer to refill drinks, ask them for dances. He was
23 advising some of the dancers to go up on the stage at various
24 times.

25 During the time that Miss Hocking was giving me my dance

1 in the totally nude section, Detective Casey did observe this
2 Timothy Wheeler to be behind the bar area watching the monitor
3 which was in a cubicle which showed what the actions in the
4 cubicle that I was in with Miss Hocking.

5 Detective Casey also observed the waitress at the time,
6 who was later identified as Marjorie Wiley, to also be behind
7 the bar area watching the monitor which was displaying the
8 activities in the cubicle that I was in with Miss Hocking. At
9 the end of the dance Miss Wiley came into the small area and as
10 she approached Miss Hocking was unaware that she was approaching
11 and did observe -- obviously observe Miss Hocking masturbating
12 herself in front of me.

13 Moving to the next --

14 Q. Let me stop you there for a second. You made a
15 reference to a slang term. You indicated that the dancer asked
16 you if, in fact, you didn't want to watch her come.

17 What did you understand that to mean at that time?

18 A. She asked me, she goes, quote, You want to see me
19 come, don't you?" "Come" is a common street slang referring to
20 reaching an orgasm.

21 Q. Okay. Go ahead. Thank you.

22 A. On October 16th, 1996, another incident occurred
23 where Detective Mellinger did receive a dance from a dancer
24 identified as Sheri Katrina Allison. Detective Mellinger will
25 have to testify as to what occurred as it occurred in a totally

1 nude area.

2 October 16th, 1996, Detective Casey received a topless
3 dance from a dancer later identified as Karen Rachel Parker.
4 Detective Casey will testify as to what occurred during that
5 time period.

6 On October 28th, 1996, a dancer later identified as
7 Kelley Ann Hocking, I observed her to be dancing on the main
8 stage of the business. Miss Hocking, again while dancing in a
9 totally nude state, did again take her hands and on numerous
10 occasions during the dance did take her first two fingers, touch
11 her vaginal area and for a few seconds on each occasion did rub
12 her vaginal area. Again, during this time period
13 Timothy Wheeler appeared to be the on duty manager through his
14 actions and Marjorie Wiley was the waitress. And they were
15 observed to be standing by the bar area observing what was
16 happening on the stage. They took no actions to stop what was
17 happening.

18 On October 28th, 1996, I received a totally nude dance
19 from a female dancer who was later identified as
20 Patricia May Holmes. During this time I paid -- or just prior
21 to the dance I paid a \$40 fee for the dance. It was negotiated
22 between Marjorie Wiley who was the waitress and myself that I
23 would get a 15-minute dance. Well, I had \$40. She advised she
24 didn't have change, so she made the decision to go ahead and
25 give me a twenty minute dance for \$40. Miss Holmes and myself

1 then went to the totally nude section and prior to the dance, I
2 asked Miss Holmes if she would, quote, play with yourself,"
3 which is common street slang referring to masturbating for the
4 dance. Her reply was, "Of course."

5 Miss Holmes and I then went into the totally nude
6 section which again still had the monitors and video cameras set
7 up. And during the 20-minute dance Miss Holmes did for
8 approximately ten minutes of the dance -- she laid a blanket out
9 on the stage and I sat in the chair right next to the stage and
10 approximately ten minutes of the dance she laid on the blanket
11 and masturbated herself. During the other ten minutes what I
12 would do is engage her in conversation because I observed that
13 each time I engaged her in conversation she would stop
14 masturbating. The reason I did that was I did not want to have
15 her lay there and masturbate herself for 20 minutes.

16 Q. How was she situated during the ten minutes you
17 claim she was masturbating?

18 A. I was seated in a chair directly next to the stage
19 which was approximately a foot or so away. She was laying with
20 her head away from me laying on her back and her legs towards me
21 exposing her whole vaginal area to me. Her legs were spread and
22 I was approximately a couple feet away from her vaginal area, a
23 little bit higher because I was seated and she was laying on the
24 stage.

25 Q. And would it be your testimony that the lighting

1 was adequate there for you to have a clear view of exactly what
2 she was doing?

3 A. Yes, the lighting was very adequate for me to
4 observe what she was doing. In addition, on this time I did pay
5 Miss Holmes an extra \$20 as a tip which was negotiated between
6 the two of us.

7 On October 28th, 1996, Detective Mellinger did receive a
8 totally nude dance from a dancer who was later identified as
9 Celeste Ruth Sheret, and Detective Mellinger will have to
10 testify as to what occurred during that time.

11 November 6th, 1996, a dancer later identified as
12 Kelley Ann Hocking, I observed her to be dancing on the main
13 stage, during this time again in a totally nude state,
14 Miss Hocking, on numerous occasions --

15 MS. ALONGE: Stop please.

16 (Ms. Alonge changed tapes.)

17 MS. ALONGE: Okay.

18 THE WITNESS: As far as the November 6th issue with
19 Kelley Ann Hocking dancing total nude on the main stage, on
20 numerous occasions I again observed Miss Hocking to go take her
21 first two fingers of her hand and touch them to her vagina for a
22 few seconds each time masturbating.

23 On November 6th, 1996, I observed a dancer only known to
24 us at this time with a stage name of Sexy to be dancing totally
25 nude on the main stage. During this time the dancer, Sexy, did

1 on numerous occasions place her hand on her vagina and for a few
2 seconds each time masturbate her vagina.

3 November 6th, 1996, a dancer only known to us at this
4 time with a stage name of Summer dancing totally nude on the
5 main stage did on numerous occasions take her hand, place it on
6 her naked vagina and for a few seconds each time masturbate her
7 vagina.

8 November 6th, 1996, a dancer who is only known to us at
9 this time with a stage name of Sandy, while dancing in a totally
10 nude state on the main stage did take her hand, place it under
11 her breast, tilt her head forward, push her breast up to her
12 mouth area and did during the dance lick the nipple of her
13 breast.

14 On the November 6th occurrences, we did observe
15 Mr. Gregory Allen Welling who is seated at the table next to me
16 at the center with a whitish, yellow shirt to be present at the
17 business. Mr. Welling was acting in a managerial-type position.
18 Mr. Welling was directing the dancers as to what to do.
19 Mr. Welling was directing the waitress as to what to do. We did
20 observe that these occurrences on the main stage were obviously
21 in the view of Mr. Welling. We observed Mr. Welling to be
22 looking at the main stage as the dancers danced.

23 Q. On that last point, see if you can be a little
24 more specific in two areas. One, you indicated that Mr. Welling
25 was acting in a managerial-type capacity by directing dancers

1 and waitresses.

2 What would he have been directing them to do?

3 A. We observed Mr. Welling -- I observed Mr. Welling
4 to advise the waitress to go around and ask some of the patrons
5 if they needed to have more drinks, if they desired to have some
6 dances. I also observed Mr. Welling -- it appeared to us that
7 they -- the business was set up to where the dancers would have
8 to go up on stage in somewhat of an order. Well, when the
9 dancer that was up next on the stage was giving either a topless
10 -- or at that time a topless dance, she would not be able to go
11 up on the main stage. I observed Mr. Welling on one occasion to
12 advise a different dancer to go up on the stage during that time
13 period.

14 Q. Now, you indicated that he was in a position to
15 observe the dancers on the main stage; is that right?

16 A. Yes, sir.

17 Q. And you indicated earlier that the women would
18 typically perform three song sets; is that correct?

19 A. Either two or three songs. It varied.

20 Q. And did the final song of the set result in the
21 woman performing totally nude?

22 A. Yes, sir.

23 Q. And was it at that time that you observed the
24 women engaging in acts of masturbation?

25 A. Yes, sir.

1 Q. And is it your testimony that Mr. Welling was
2 present during those occasions when the woman was performing the
3 final song of her set and masturbating?

4 A. During the time period that we observed these
5 actions -- that I observed these actions along with the other
6 detectives, I did observe Mr. Welling to be at various locations
7 in the bar and, again, I call it a bar, it's not a bar as we
8 know it in the business. And for the most part he was located
9 either behind or at the bar setup area. Mr. Welling was
10 approximately 20 to 30 feet, maybe, away from the main stage.

11 The main stage was very well lit and I have been at that
12 location as well as locations behind, you know, further away
13 from where Mr. Welling was and from those locations you have a
14 clear view of what's occurring on that main stage. It is well
15 lit from where you're standing. I did observe Mr. Welling
16 during those occasions to be looking at the bar, not
17 continuously --

18 Q. I'm sorry. You said the bar?

19 A. Not continuously, but on occasion to be looking at
20 the stage while the dancers were performing these acts.

21 Q. Which acts?

22 A. The masturbation acts.

23 Q. On those occasions when you believe Mr. Welling
24 was observing these acts of masturbation, did you ever note an
25 attempt of any sort on the part of the dancer to hide the act of

1 masturbation from Mr. Welling?

2 A. No, sir. No. Not during that time, no, I did
3 not.

4 MR. HAYS: Okay. That's all I have of this witness on
5 Eve's Tease.

6 Did you want to ask any questions now?

7 MR. DICAVALCANTE: Yes, sure.

8 CROSS-EXAMINATION

9 BY MR. DICAVALCANTE:

10 Q. How long have you been a police officer?

11 A. This coming July will be 18 years.

12 Q. How long have you been in Vice?

13 A. For this portion of my term in Vice I've been
14 approximately six months or so, and the mid-eighties,
15 '86, '87, I worked in Vice for approximately a year and a half.
16 All total I've been working in an undercover capacity for
17 approximately 13 years.

18 Q. Did you receive any special training to work in
19 Vice?

20 A. I received on-the-job training from more
21 experienced Vice officers.

22 Q. What kind of training -- Give us examples of what
23 kind of things they would want you to learn on the job.

24 A. Basically they advise you to read through the
25 laws, read what's required in the laws. I was schooled by more

1 kind of an incident you did not seek to write up this club for
2 any kind of misbehavior?

3 A. I wrote a police report but it was not turned in
4 yet.

5 MR. DICAVALCANTE: Nothing further.

6 MS. ALONGE: Can I make a short announcement? I'm
7 sorry. The fire alarms are having a problem so, if they go off,
8 it isn't a fire.

9 MR. HAYS: Great. Thank you.

10 DIRECT EXAMINATION

11 BY MR. HAYS:

12 Q. Officer, will you state your full name for the
13 record, please?

14 A. William Mellinger, M-E-L-L-I-N-G-E-R.

15 Q. Shall I refer to you as officer now?

16 A. Officer is fine.

17 Q. Officer, I presume at some point you were employed
18 in the Vice enforcement unit of the Phoenix Police Department;
19 is that right?

20 A. Yes, I was.

21 Q. Over what period of time were you employed with
22 that unit?

23 A. From -- Well it was three years and I left to go
24 back to patrol on February -- I think it was 21st.

25 Q. Of '97?

1 A. Yes.

2 Q. And you were a part of the investigation being
3 done at Eve's Tease and The Body Shop; is that right?

4 A. That's correct.

5 Q. And do you recall on which dates you were in Eve's
6 Tease in an undercover capacity?

7 A. Referring to my report or supplement.

8 Q. You prepared a written report in connection with
9 this investigation?

10 A. Yes, I did.

11 Q. When was that report prepared?

12 A. It started on October 16th and went on to about
13 November, through November.

14 Q. What I'm asking you is at what point do you
15 actually write in your report? Is it after you leave the
16 establishment? At what point do you actually take the --

17 A. Depending on what time we went in. If it was late
18 in the day, our shift usually ended at 4 o'clock, then we would
19 make notes at a nearby location on a steno pad and the next day
20 we type it in on our computer.

21 Q. All right. And that was your practice during this
22 investigation; is that right?

23 A. Yes, it was.

24 Q. Let's go back to the original question. On what
25 dates were you in Eve's Tease in an undercover capacity?

1 A. October 16th.

2 Q. 1996?

3 A. '96.

4 Q. Okay.

5 A. October 28th, '96. November 6, '96.

6 Q. Were you in there about November 28th?

7 A. October 28th.

8 Q. Not November 28th?

9 A. I don't think so.

10 Q. Have you seen a copy of the notice or notice of
11 intent to revoke the license for Eve's Tease?

12 A. Oh, wait. Back up. I was in there on October
13 28th.

14 Q. October or November?

15 A. October 28th.

16 Q. I think you indicated that before.

17 Are you acquainted with what I think we marked as
18 Exhibit 1, notice of intent to revoke?

19 A. Yes.

20 Q. Referring to page five, item 2C, there's an
21 incident recorded there for October 16th of 1996. Take a minute
22 to look at that and tell me if you recall that incident as you
23 sit here today.

24 A. Yes, I do.

25 Q. Tell the Board what happened, please, what you

1 observed at that time.

2 A. I went in with Detective Kulesa in an undercover
3 capacity and as he described, we sat in the establishment,
4 watched some of the dancers. We were approached by a couple of
5 the dancers and one of them approached me. She had a strong
6 Australian, New Zealand accent and she went by the name of Pearl
7 which was her stage name. She was identified later as
8 Sheri Allison. She asked if I wanted a private show. I was
9 also solicited by Angela who was the waitress for a private
10 show. It was \$35 and I paid the \$35 to Angela.

11 She told me that -- I asked her if there would be any
12 contact in the back and she said no because there were cameras
13 in the back so the manager can watch the girls and the patrons
14 from the bar, that way the girls wouldn't get hurt. I paid
15 Angela the \$35, went back to the area that Detective Kulesa
16 described behind the stage. We were in, I believe it was the
17 second cubicle as you go in the back room.

18 Pearl asked me what I was into and I told her just
19 watching. And she asked me what I wanted to watch. I says,
20 well, I asked her if she would masturbate herself and she said,
21 "Sure. How far do you want me to go?" I says, "All the way."
22 Pearl said, "I can go all the way," but what I would give her as
23 a tip would depend on how far she would go. I asked her how
24 much she wanted and she told me that it was up to me. I asked
25 her if \$20 would be fine, if \$20 was okay and she said that

1 would be fine.

2 Q. What did she do?

3 A. At that time she removed her clothes, she sat on
4 the stage, it's about five by five, about 18 inches high. She
5 sat on the stage in front of me and leaned back, so now she's
6 laying on her back and she had her legs up kind of like -- kind
7 of like -- Well, with her feet flat on the ground, her knees
8 were up. She was approximately two feet, maybe a foot and a
9 half, two feet from me from where her knees were. At that time
10 she leaned her head back, she closed her eyes and she began to
11 masturbate herself by rubbing her vagina. This went on for --
12 it was probably ten, 15 minutes.

13 While she was doing that, I got an opportunity to look
14 around. I saw that there was a camera up to my left, there was
15 another camera up in front of another cubicle. I couldn't see
16 to the fourth cubicle. And the cubicle behind me I was unable
17 to look around the wall, so I really couldn't get a good
18 description of it.

19 She continued on. After about probably ten, 12 minutes,
20 Angela, the waitress, came in. I saw the curtains open up
21 because it got brighter in the back room. I looked up. As she
22 walked by she looked down at Pearl laying on the stage and
23 continued walking past to talk to Detective Kulesa and I think
24 it was Hocking, her name is Sierra, her stage name.

25 While Angela was talking to Detective Kulesa, Pearl sat

1 up and she said that she didn't know that Angela was back there.
2 I said -- I asked her if she was going to get into any trouble.
3 She said, "No, Angela's cool with it. She don't care." She
4 said, "That's the best I've ever felt." I gave her a \$25 bill
5 -- or gave her \$25. And after she got dressed we walked back
6 out into the patron area, the bar.

7 Q. \$25, was that a tip you had agreed to in advance
8 or was that something you offered gratuitously after she was
9 done?

10 A. That was what we agreed to in advance. She said
11 what she did depended on what I gave her as a tip. And as I
12 testified earlier, I said -- I told her that I'd give her \$20 --
13 or \$25 and she said that would be fine.

14 Q. You said Angela observed this; is that right?

15 A. Angela -- I don't. I would have to look at
16 Detective Kulesa's report for her real name. I think it's
17 Wiley, Miss Wiley.

18 Q. Do you wear glasses?

19 A. No.

20 Q. Was the light adequate at that time for you to
21 observe her actions?

22 A. Yes, it was.

23 Q. All right. Let's go to October 28th, 1996.
24 You're in the totally nude performance area.

25 Do you recall an incident with a woman whose real name

1 is Celeste Ruth Sheret?

2 A. Yes.

3 Q. Could you describe for the Board what happened at
4 that time?

5 A. Basically the same scenario. From the beginning
6 we sat and watched a few of the dancers on stage. We were
7 approached by several of the dancers. One of the dancers that I
8 was approached by went by the stage name Audae. Her name was
9 Celeste Sheret. At the same time Angela came over and asked if
10 I wanted a private dance. I paid Angela \$35 for the private
11 show in the area behind the stage. I got up, we walked back
12 there and Audae told me, "Like Angela said, the better the tip,
13 the better the show."

14 I asked her how much she wanted for a tip and she
15 replied, "More than a dollar," she said, or else she would be
16 offended. And I told her I would give her \$20 and asked if that
17 was okay and she nodded her head in an affirmative manner.

18 She took her clothes off. She was wearing a short
19 dress, kind of a blue nylon, silky-type dress. She took it off
20 and she did the same thing. She sat on the stage and leaned
21 back. I asked her if she would masturbate herself for the \$20
22 and she said, "I can't do that because they watch us on cameras,
23 but watch." At that time she turned over, she was on her knees
24 and her elbows facing away from me and at that time she
25 masturbated herself by rubbing her vagina. The position that

1 she was in made it difficult for the camera to see it because
2 she was sitting in front of me here and the camera was up here
3 and her arm was underneath her with her hand coming up between
4 her legs, so it was difficult. Had anybody been watching the
5 monitors, I'm sure they probably wouldn't have been able to see
6 her hand.

7 Q. All right. Let's go to November 6th, 1996.

8 On that date did you know a man by the name of
9 Gregory Allen Welling?

10 A. No.

11 Q. Do you know who Gregory Allen Welling is today?

12 A. Yes, I do.

13 Q. Is he in the room today?

14 A. Yes, the gentleman sitting with the goatee beard
15 and the white shirt.

16 Q. On November 6, 1996, do you recall seeing that
17 same gentleman at the business?

18 A. On the last day, yes, the last day that I was in
19 there, yes.

20 Q. Which was what date?

21 A. November 6.

22 Q. All right. And can you explain to the Board what
23 you observed Mr. Welling to be doing, where he was in relation
24 to the business, what he was doing?

25 A. On that date, that was the day that he took our \$5

1 cover charge.

2 Q. At the door?

3 A. Yes.

4 Q. Did he remain at the door?

5 A. No. He was behind the bar most of the time.

6 Q. What was he doing behind the bar? Serving drinks?

7 A. Pouring drinks probably. It was hard to tell.

8 Q. Do you recall, as you sit here today, whether or
9 not Mr. Welling was in a position, while he was behind the bar,
10 to observe the main stage?

11 A. Oh, yeah, there was a clear view.

12 Q. And during that time were there women dancing on
13 the main stage?

14 A. Yes.

15 Q. And would it be your testimony that the women --
16 You were present for the testimony of Detective Kulesa; is that
17 right?

18 A. Yes, I was.

19 Q. Did he accurately describe the manner in which the
20 women go through their two or three song set?

21 A. Yes.

22 Q. And those sets were occurring while Mr. Welling
23 was behind the bar; is that correct?

24 A. That's correct.

25 Q. One last thing do you recall observing any signage

1 that may have been on the outside of the business or the outside
2 of the front door of the business?

3 A. No.

4 As far as the SOB ordinance?

5 Q. Do you recall any signage at all on the outside of
6 the business?

7 A. No. I recall posters. I recall a sign that had
8 the dancers' names written on it as you come in the door.

9 Q. Once you're inside the business?

10 A. Once you're inside the business.

11 Q. Do you recall any signage inside the business that
12 may have had rules or something along those lines?

13 A. No. My attention wasn't brought to it.

14 Q. Was it part of your investigation to determine
15 whether or not there were signs which may contain rules posted
16 for patrons to observe either outside the business or as they
17 enter?

18 A. It's in the code that there should be a sign
19 posted. I didn't observe one. Quite honestly, I wasn't even
20 looking for one.

21 When Detective Kulesa and I went in there, we went in
22 the establishment as looking as regular customers as though we'd
23 been in there a lot, we knew what we were doing. It would kind
24 of hink somebody up if we stood around and read pictures or
25 letters or documents on the wall. Most patrons don't do that

1 when they go into establishments like this, so we didn't do
2 that.

3 MR. HAYS: Okay. That's all I have. Thank you.

4 MR. DICAVALCANTE: I'll be a lot more brief here.

5 CROSS-EXAMINATION

6 BY MR. DICAVALCANTE:

7 Q. You're now back in uniform; is there a reason for
8 that, that you asked for reassignment to uniform?

9 A. Mo money.

10 Q. Mo money?

11 A. Mo money.

12 Q. You left Vice and went back to uniform at your
13 request?

14 A. Yes, I did.

15 Q. The two incidents that you've talked about where
16 you used a word, "hidden" and another one, "can't do that." The
17 first one was "hidden" where you were having some exchange with
18 some girl and she was indicating to you that we're going to need
19 to go hide someplace where the management can't see what we're
20 doing. Do you recall that portion of your testimony?

21 A. We're going to have to go hide somewhere?

22 Q. No. The word was, "hidden." I wish I'd written
23 it down verbatim. But was there an interaction with one of
24 these dancers or entertainers where they said to you: We're
25 going need to get out of the view of management?

1 Okay.

2 MR. HAYS: That reconcile it?

3 MR. DICAVALCANTE: Yes.

4 MR. HAYS: Okay. Thank you, Officer.

5 Okay. Detective Casey. Quick half hour.

6 DIRECT EXAMINATION

7 BY MR. HAYS:

8 Q. You're still a detective; is that right

9 A. Yes.

10 Q. You're not a plain clothes officer or something.

11 Okay. State your full name for the record.

12 A. Donald Casey. The last name is spelled C-A-S-E-Y.

13 Q. And how are you employed?

14 A. As a Phoenix police detective.

15 Q. And, Detective, how long have you been -- you're
16 in the Vice enforcement unit; is that right?

17 A. Yes.

18 Q. And how long have you been in that unit?

19 A. A little over three years.

20 Q. How long have you been in the employment of the
21 Phoenix Police Department?

22 A. Just over 13 years.

23 Q. And you're acquainted with the investigation of
24 Eve's Tease; is that right?

25 A. Yes.

1 Q. And you participated in that?

2 A. Yes, I did.

3 Q. On how many occasions did you visit the business?

4 A. On one occasion.

5 Q. What was the date?

6 A. October 16th of '96.

7 Q. And as you sit here today, do you have a
8 recollection of that visit?

9 A. Yes.

10 Q. And have you ever seen the City's notice of intent
11 to revoke the license of Eve's Tease?

12 A. Yes, I have.

13 Q. On page five at number 2B there's an incident
14 reference on October 16th of '96, the date you were there, with
15 a woman by the name of Kelley Ann Hocking.

16 Do you know Kelley Ann Hocking by her real name or some
17 other name?

18 A. She was one of the dancers that had contact with
19 either Detective Kulesa or Detective Mellinger.

20 Q. Okay. Do you recall that contact?

21 A. They had a private room dance from her.

22 Q. Fair enough. Do you know a woman by the name of
23 Marjorie Wiley?

24 A. Yes.

25 Q. And do you recall if Marjorie Wiley was present at

1 the business when this private dance you just referred to was
2 occurring?

3 A. She was at the business and apparently working in
4 the capacity of a waitress.

5 Q. As a waitress? Okay. Was she one of the people
6 that would act as an agent, as Counsel determined, collecting
7 money for private dances?

8 A. Yes.

9 Q. And do you recall if she observed this private
10 dance that you just referenced?

11 A. No, I don't.

12 MS. ALONGE: Stop, please.

13 MR. HAYS: Hold on a second.

14 (Ms. Alonge changed tapes.)

15 MS. ALONGE: Okay.

16 BY MR. HAYS:

17 Q. Do you know a Timothy Wheeler?

18 A. Yes.

19 Q. How do you know him?

20 A. He was acting as bartender and appeared to be
21 managing or running the Eve's Tease on October 16th.

22 Q. What was he doing that made you conclude that he
23 may have been running or managing the business on that date?

24 A. He was giving some directions to the dancers. I
25 noticed him pointing to patrons as if sending Marjorie Wiley

1 over to check on their drinks. He also collected the entrance
2 fee from me when I entered Eve's Tease.

3 Q. What sort of directions was he giving the dancers?

4 A. Telling a dancer to go up on the stage.

5 Q. Did you ever observe a situation where
6 Timothy Wheeler was in a position to observe an act of
7 masturbation being performed by a dancer or one of the
8 performers there?

9 A. Yes.

10 Q. How did that occur?

11 A. I was in the topless private dance area and I was
12 seated facing the -- what would be the south side of the
13 business or the bar area and I could see a group of TV monitors.
14 And on those monitors it looked to be a slightly overhead,
15 downward view of four small rooms. I knew at the time that
16 Detectives Kulesa and Mellinger had obtained private dances in
17 the totally nude area. I could -- On the monitors I could see
18 from where I was, which was a distance away, I could see that
19 two of the rooms were occupied by two people. I couldn't make
20 out who the people were. I saw Mr. Wheeler watching the
21 monitors. At one point he called Marjorie Wiley over, pointed
22 to the monitors and I recall them laughing. And they continued
23 to watch the monitors for maybe two, maybe three more minutes.

24 Q. And these are monitors of which rooms again?

25 A. I couldn't tell what rooms they were monitoring,

1 but they appeared to be four small rooms.

2 Q. That were on the monitor?

3 A. That were shown on the monitor.

4 Q. You actually viewed the monitor yourself?

5 A. Yes.

6 Q. And you viewed it at about the time they were
7 observing the monitor?

8 A. Yes.

9 Q. Wheeler and Wiley?

10 A. Yes. I was looking at the screen at the same time
11 they were.

12 Q. And did they take any action in connection with
13 what they were seeing apart from laughing about it or whatever
14 you indicated?

15 A. Well, as I said, Mr. Wheeler was looking at the
16 monitors. He motioned or called Miss Wiley over and pointed up
17 at the screen. I couldn't tell specifically what he was
18 pointing at or which room. I recall them laughing and then they
19 stood there and watched the monitors for two or three more
20 minutes.

21 Q. Could you see what was going on in the rooms by
22 virtue of watching the monitor yourself?

23 A. From where I was, I could see that there were two
24 people in each of the two rooms, but I couldn't tell what was
25 going on.

1 Q. You couldn't tell specifically what these people
2 were doing in these rooms at this time?

3 A. That's correct.

4 Q. Is there any other instance you can think of where
5 Timothy Wheeler may have observed an act of masturbation being
6 performed by one of the employees or independent contractors,
7 someone working for the business?

8 A. No.

9 Q. Do you know someone by the name of
10 Carol Rachel Parker?

11 A. I believe it's Karen Parker.

12 Q. I'm sorry. Karen Parker.

13 A. Yes.

14 Q. Was she present at the business on October 16th,
15 1996?

16 A. Yes, she was.

17 Q. Did you observe her engaged in what the code
18 refers to as an act of sexual contact in the business?

19 A. Yes.

20 Q. And could you describe for the Board what you saw
21 her doing?

22 A. I paid for and obtained a private, topless dance
23 from Karen Parker who was using the stage name of Sapphire. I
24 obtained that through Marjorie Wiley. I paid \$35 for 15 minutes
25 or approximately three songs.

1 Q. Was that the standard price?

2 A. Yes.

3 Q. Go ahead.

4 A. Miss Parker took me to the east end of the bar,
5 which is the private area for the topless dances, and while
6 there, she removed her bra top and began dancing in front of me.

7 During the dance I was seated with my hands on my
8 thighs. She would dance between my legs. During part of the
9 dance she bent down and rubbed her bare breasts and nipples
10 across my hands and she would also rub them in my clothed
11 genital area.

12 Q. Where were your hands at this time?

13 A. My hands were palm down on my thighs.

14 Q. Okay. And when she's rubbing her breasts against
15 your hands, she rubbing them against the back of your hands; is
16 that correct?

17 A. Yes.

18 Q. Did you do anything in response to that?

19 A. I would try to move back in the seat and break the
20 contact with her.

21 Q. You heard the testimony earlier about signage at
22 the business. I'll ask you the same question.

23 Do you recall any signs outside of the business on the
24 door or adjoining the wall?

25 A. Just the business sign itself, Eve's Tease.

1 Q. Do you recall any signs in the interior, in the
2 foyer of the business?

3 A. No.

4 Q. Did anyone at anytime ever tell you that you were
5 violating a club rule or regulation of any sort by your conduct?

6 A. No.

7 Q. Did you ever ask a question of someone that
8 requested a service that they refused to provide?

9 A. I'm sorry. Could you repeat that?

10 Q. Yeah. Did you ever ask anyone working for the
11 business a question which was asking them to provide a service
12 which they refused to provide?

13 A. During the private dance, I asked Karen Parker for
14 a \$20 tip if she would masturbate me. She never answered
15 directly, she laughed.

16 Q. But she clearly didn't agree to do it?

17 A. No, she did not.

18 MR. HAYS: All right. That's all I have.

19 CROSS-EXAMINATION

20 BY MR. DICAVALCANTE:

21 Q. I'm curious about your moving back when a girl's
22 nipples touched the back of your hands.

23 Are you telling this Board that you went into this place
24 as a John Doe off the street into a nude bar and you engaged one
25 of these people to interact with you and when they began

1 MR. DICAVALCANTE: Mr. Chair, as we were talking about
2 before we took the short break, we have now marked this document
3 that is marked by the court reporter as Exhibit No. 3, Eve's
4 Tease and we would ask that this document in toto be submitted
5 for the record. It contains four or five pages of what I would
6 characterize as background information and then mostly argument
7 and then some attachments that are a certified copy of the code
8 and some Arizona case law and a finding in federal court here
9 with regard to a section of this ordinance which, we allege,
10 goes to the overall unconstitutionality of the ordinance.
11 With that in mind, we would ask that this be accepted as part of
12 the record.

13 MR. SNOW: Okay. Just to reiterate once again,
14 Mr. Hays, is there any objection to this being entered from the
15 City?

16 MR. HAYS: No. Without agreeing to anything in it, I
17 have no objection to it being entered.

18 MR. SNOW: And the Board has no objection.

19 MR. DICAVALCANTE: Mr. Chair, for the Appellant's
20 first witness we'll call Jessica Alcantar.

21 DIRECT EXAMINATION

22 BY MR. DICAVALCANTE:

23 Q. Ma'am, would you state your name for the record?

24 A. Jessica Alcantar.

25 Q. I want you to keep your voice up so the court

1 reporter over there can hear you and everybody else can hear
2 you.

3 Miss Alcantar, how are you presently employed?

4 A. I'm now working at Eve's Tease.

5 Q. What does your employment over there consist of?
6 What do you do there?

7 A. I dance.

8 Q. Are you a nude dancer?

9 A. Yes, I am.

10 Q. And how long have you been so employed?

11 A. For a year, maybe a little over.

12 Q. Have you worked at a place called The Body Shop?

13 A. Yes, I have.

14 Q. So you've worked at both Eve's Tease and The Body
15 Shop that are the subject of this hearing; is that correct?

16 A. Yes, I have.

17 Q. Can you give us some idea of how often you work
18 there?

19 A. I work there at least five to six days a week.

20 Q. Do you work the day or the evening shift?

21 A. Evening.

22 Q. And in terms of shift work, is this something
23 that's two hours, five hours, six hours? How long is a shift?

24 A. Eight hours.

25 Q. And you've been doing this for a year?

1 A. A year.

2 Q. Would it be your testimony -- And you understand
3 you're under oath?

4 A. Yes.

5 Q. Would it be your testimony that you are familiar
6 with the procedures and policies as far as management goes with
7 regard to conduct of employees at Eve's Tease and The Body Shop?

8 A. Yes.

9 Q. And that would be for this preceding year that
10 you've worked; is that correct?

11 A. Yes.

12 Q. So that we have some time line, do you know when
13 you began working at either place?

14 A. March of '96.

15 Q. At which place?

16 A. Eve's.

17 Q. And for The Body Shop when was your first
18 employment there?

19 A. We fluctuate. If they need girls at The Body
20 Shop, they take a couple from Eve's and send them over there.

21 Q. Okay. When you first went to work there, did you
22 have occasion to speak with somebody to ask if you could have
23 employment there?

24 A. Yes.

25 Q. Who would that be?

1 A. Tim.

2 Q. Does Tim have a last name?

3 A. Yeah.

4 Q. You don't know his last name?

5 A. No.

6 Q. Is this Wheeler?

7 A. Yes.

8 Q. What capacity did you understand he occupied at
9 either Eve's or the Body Shop?

10 A. He's the manager.

11 Q. And explain to us what the interaction was.
12 Did you say, I want a job or something like that?

13 A. I walked in and I told him that I needed an
14 application for a job. He gave me the application, I filled it
15 out, he gave me a tour, he showed me sheets of paper that were
16 hung on the wall that told me the rules that I had to abide by
17 and I received my job.

18 Q. Can you tell the Board, if you recall, what some
19 of the rules were that were explained to you when you began to
20 work at either place?

21 A. Yes. I had to take the tips a certain way. I
22 couldn't let any of the men touch me in certain places. I
23 wasn't allowed to have sex with men inside or outside the club.
24 Drugs are not permitted on the premises. Alcohol is not
25 permitted on the premises.

1 Q. Did it have to be explained to you that you were
2 prohibited from doing things like masturbating yourself for
3 customers?

4 A. I was told that you weren't allowed to touch your
5 genital areas, you weren't allowed to open your lips, anything
6 like that.

7 Q. Open your labia?

8 A. Yes.

9 Q. I know that this testimony is graphic, but I
10 think that everybody understands.

11 Did you ever, during the year that you were employed
12 there, did you ever have a customer come to you, ask you for
13 what had been told to you to be prohibited activity?

14 A. Yes, many times.

15 Q. What did you do when those things happened?

16 A. Told them no, we're not allowed to.

17 Q. Would you do anything further?

18 A. The first time if they ask, I tell them no. If
19 they continue asking, I tell the management. It becomes a
20 bother, so they kick them out.

21 Q. Can you testify that you have ever personally been
22 involved in an incident at Eve's Tease or The Body Shop where
23 you told management that a customer was misbehaving and that
24 customer was ejected from the premises?

25 A. Yes.

1 Q. How often did that happen?

2 A. To me?

3 Q. Yes, just to you.

4 A. It's only happened three times at the very most.

5 Q. Do you have personal knowledge of when that has
6 happened involving other dancers?

7 A. It happens to all of us. It's an everyday thing.

8 Q. It's an everyday thing. What's an everyday thing?

9 A. Being confronted, asked to do things.

10 Q. And do you know personally of management ever
11 terminating a dancer for misbehavior?

12 A. Yes.

13 Q. Do you have names of people that have been
14 terminated and the reasons why?

15 A. Yes.

16 Q. Can you tell us those?

17 A. Pearl was terminated for doing what we call dirty
18 dances. Destiny, Strawberry, Special, Cory, Deserai. That's
19 all I can remember right now.

20 Q. Do you know Greg Welling?

21 A. Yes.

22 Q. How do you know him?

23 A. He's the owner of the club I work at.

24 Q. Are you talking about Eve's Tease?

25 A. Yes.

1 Q. Have you ever had any discussion with Greg with
2 regard to rules, regulations, conduct, policies?

3 A. When I have questions, I ask him. If I see girls
4 doing certain things, I question him, "Are we allowed to do
5 that?"

6 Q. What advice does he give you?

7 A. If we're not allowed to do it, he says, no, and he
8 says something to the girl.

9 Q. Is it your opinion that -- or your personal
10 experience that Greg Welling follows all of the rules that you
11 have told the Board were told to you by Tim Wheeler when you
12 first came to work?

13 A. Yes.

14 Q. Do you know Anita Welling?

15 A. Yes.

16 Q. How do you know Anita Welling?

17 A. She's the owner also of Eve's.

18 Q. Would all of the questions that I've asked you
19 with regard to Greg's adherence to the rules, telling you what
20 the rules were, whatever, equally apply to your answers about
21 Anita Welling?

22 A. Yes.

23 MR. DICAVALCANTE: I have nothing further.

24 Stay there.

25 WITNESS: Okay.

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CROSS-EXAMINATION

BY MR. HAYS:

Q. Jessica, you said you started working for Eve's Tease about a year ago; is that right?

A. A year, maybe a little over.

MR. DICAVALCANTE: Speak up.

BY MR. HAYS:

Q. Which shift did you start working when you first started working at Eve's Tease?

A. Evening.

Q. Over what hours is the evening shift?

A. 7:00 at night until 3:00 in the morning.

Q. And did that continue up until the present or did you change the hours of your shift?

A. No, I still work evenings.

Q. How many women work there during the evening shift at Eve's Tease?

A. It varies.

Q. What's the range?

A. We can have from five to 15.

Q. See if you can recall the operation of the business prior to November of last year, can you do that in your mind?

A. Uh-huh. Yes.

Q. Do you ever recall seeing a woman dance totally

1 nude on the main stage during that period of time?

2 A. Yes.

3 Q. And do you ever recall seeing a woman, while her
4 breasts were exposed, no clothing on her torso, accept a tip, a
5 dollar bill tip, from a patron using her breasts?

6 A. Yes, I've seen it happen.

7 Q. Okay. Is that an unusual occurrence there or
8 would that be a typical way of accepting a tip?

9 A. When I first started, we were told that we
10 couldn't do it. And then a couple of months into me working I
11 guess the ordinance wasn't passed or something so I was told
12 that they weren't sure if we could do it anymore but some girls
13 started doing it. And as soon as the ordinance went back in, we
14 were reprimanded and said that you can't do that.

15 Q. When did you understand the ordinance to have gone
16 back in?

17 A. I don't remember exactly because I don't take tips
18 with my breasts.

19 Q. Well, focusing then on the women who did or do, do
20 you recall when it was during that period up till November of
21 '96 when they stopped accepting tips with their breasts?

22 A. No.

23 Q. Are you sure that this incident you're referring
24 to when the ordinance goes back into effect, in fact, took place
25 before November of 1996?

1 A. No.

2 Q. So it could have occurred afterwards?

3 A. Yes.

4 Q. During this period between the time you begin
5 working in November of 1996, do you ever recall seeing a woman
6 place her hand or her fingers on her genitals while performing
7 totally nude on the main stage?

8 A. I've seen it.

9 Q. It has occurred?

10 A. Yes.

11 Q. Of the 15 women that you say might be working as a
12 maximum on any particular evening, what number of them would
13 engage in that type of activity?

14 A. I can't say what numbers. If I see it happening,
15 then I say something to management cause personally I think that
16 if I'm not allowed to do it, then neither is anybody else.

17 Q. It would be your view then that being able to
18 perform that sort of activity while on the main stage would be
19 an advantage to a performer there financially?

20 A. Yes, it probably would.

21 Q. In other words, you would gather more tips if you
22 could engage in that type of activity?

23 A. Yes, you probably would. I can't say. I've
24 never --

25 Q. The patrons that go into your business there are

1 (a) excited by this activity (b) repulsed by it or (c) neutral?

2 What would your answer be?

3 A. I've never seen anybody not want to see anything.

4 Q. So your understanding is that men go into this
5 business with the hope at least that they would be able to watch
6 a woman get totally naked; is that right?

7 A. Yes.

8 Q. And perhaps masturbate herself?

9 A. No, I've never -- I mean --

10 Q. I'm asking you to speak of the patrons that go
11 into the business. You've spoken with some of these patrons, I
12 presume. You've been there a year; is that right?

13 A. Yes.

14 Q. So you've had a chance to communicate with the
15 patrons that go into the business?

16 A. Yeah.

17 Q. Is it your understanding, based upon your
18 experience with them, that they go into the business with the
19 hope that they will see a woman get totally naked on the main
20 stage and place her hands in her genital area?

21 A. No, from my understanding they go in to see naked
22 women.

23 Q. And that's it?

24 A. Dance, yes.

25 Q. Have you ever witnessed or been aware of an

1 occurrence where a man paid a woman to perform an act of
2 masturbation in one of the private rooms?

3 A. No.

4 Q. No personal knowledge of that happening?

5 A. No. I wouldn't -- It wouldn't happen in front of
6 me because management would know.

7 Q. Why is that? What is the connection? You would
8 tell them?

9 A. Yes.

10 Q. Were you ever acting in any sort of managerial
11 capacity there at the business?

12 A. No, I've always been a dancer.

13 Q. Just a regular dancer?

14 A. Yes.

15 Q. Are the other dancers aware of the fact that if
16 they engage in that type of activity that you would tell
17 management?

18 A. Yes.

19 Q. Would that create an incentive then on the part of
20 these other dancers to hide that type of activity from you?

21 Let me ask the question differently.

22 Is it common knowledge amongst the other dancers that
23 you will report acts of masturbation by dancers which patrons
24 are paying for?

25 A. Yes. I'm not the only one who reports it.

1 Q. Have you had occasion to report it?

2 A. Yes. In my opinion it's not fair to have my
3 customers seeing another girl do something that they are not
4 supposed to be doing. That's taking away from my money, my
5 kids. So you're not going to sit across from me and do
6 something that you're not supposed to be doing.

7 Q. Do you know Kelley Ann Hocking?

8 A. Do you have her stage name?

9 Q. I'm sure I do.

10 Do you know a woman by the name of Sierra?

11 A. Yes, I do.

12 Q. But you don't know her real name?

13 A. No, I haven't come into contact with her very
14 much. I just recognize the name from switching shifts.

15 Q. All right. You've never been on duty at the same
16 time as Sierra?

17 A. No.

18 Q. How about Sheri Katrina Allison, do you know that
19 person?

20 A. Do you have her stage name?

21 Q. Pearl. Do you know Pearl?

22 A. Yes.

23 Q. Have you ever been working at the business at the
24 same time as Pearl?

25 A. Yes.

1 Q. And is Pearl one of those individuals that you
2 observed, whether you reported it or not, performing an act of
3 masturbation at the business?

4 A. Yes.

5 Q. She has?

6 A. Yes.

7 Q. And after witnessing that act, did you report it
8 to management?

9 A. Yes, I did.

10 Q. Was she aware of the fact that you reported that
11 to management?

12 A. Yes, she was.

13 Q. And what happened as a result?

14 A. She got in trouble.

15 Q. What sort of trouble?

16 A. She was pulled off the show that she was doing,
17 she was taken and reprimanded.

18 Q. What do you mean by "pulled off the show she was
19 doing"? What show was she doing?

20 A. She was doing a table dance in the back.

21 Q. Oh, you observed her performing this act of
22 masturbation --

23 A. No, she wasn't masturbating.

24 Q. She wasn't masturbating.

25 What was she doing?

1 A. What we call it is dirty dancing. From what I
2 remember, she kissed a customer.

3 Q. Where did she kiss him?

4 A. On the lips.

5 Q. That was the extent of it?

6 A. That's as far as I let it go.

7 Q. How was she clothed at that time?

8 A. Topless.

9 Q. Just topless?

10 A. Yes.

11 Q. Were you making it a point to observe this
12 performance? In other words, were you actually directing your
13 attention specifically to what she was doing or did you happen
14 to observe this just as an incidental manner?

15 A. I was doing a table dance across from the area
16 that she was doing it and I witnessed it and got up and went
17 over and told management.

18 Q. Simply because she was kissing a patron on the
19 lips?

20 A. Yes. That's not allowed. If my customer sees
21 that, then he's going to wonder why I'm not kissing him.

22 Q. And the dance that you were doing at this time was
23 in what, the private dance area; is that right?

24 A. Topless.

25 Q. Just the topless?

1 A. Yes.

2 Q. So you kept something on the bottom?

3 A. Yes.

4 Q. And your breasts were totally exposed; is that
5 right?

6 A. Yes.

7 Q. You didn't have pasties on or anything like that?

8 A. No.

9 Q. In the year you've been performing there, have
10 your breasts ever come in contact with a patron?

11 A. Accidentally a couple of times I probably brushed
12 them against them.

13 Q. And has a patron ever placed his hands on your
14 breasts?

15 A. Yes.

16 Q. And what do you do at that point?

17 A. Move his hands.

18 Q. Is it your understanding that that is the reaction
19 that all of the women have while giving private dances at the
20 business?

21 A. To move the hands?

22 Q. Right.

23 A. Yes.

24 Q. So you're not at a competitive disadvantage if
25 everybody is moving the patrons' hands?

1 A. Exactly.

2 Q. That's why you insure that everyone lives up to
3 the same rule you have?

4 A. I think that morally I couldn't let a guy touch my
5 breasts whether it was the law or wasn't.

6 Q. Why is that?

7 A. Because I'm not there to let him touch my boobs.
8 I'm not there to let him do anything else but see me dance.

9 Q. So are the rules you're following your own
10 personal morality or something else?

11 A. No, it's the rules of my morality and the rules of
12 the club.

13 Q. And what are specifically the rules of the club?

14 A. You are --

15 Q. These are the rules given to you when you're
16 hired?

17 A. Yes, they are posted on the wall and you're taken
18 over and they show them to you.

19 Q. Is this in a place where the patrons can see it?

20 A. Three places where the patrons can see them.

21 Q. And did the rules provide that the patron may not
22 touch the dancer in any way?

23 A. Yes.

24 Q. Did they provide that the patron may not come in
25 contact with the dancer in any way?

1 A. In any sexual way, yes.

2 Q. It's worded "in any sexual way"?

3 A. Yes.

4 Q. What do you understand that to mean?

5 A. That they are not allowed to touch us.

6 Q. When the woman is giving one of these dances in
7 the private topless dance area, isn't there contact between a
8 woman and a man?

9 A. On their arms and legs.

10 Q. How close are you when you're performing one of
11 these dances?

12 A. I can sit on them.

13 Q. Sitting on his lap?

14 A. Yes.

15 Q. Facing him?

16 A. Or backwards.

17 Q. Backwards? And when you're sitting on his lap
18 facing him, where do you put your arms?

19 A. Sitting on his lap facing him?

20 Q. Right.

21 A. Usually around his neck.

22 Q. At that point doesn't that put your breasts quite
23 close to the man's body?

24 A. Close, not real close.

25 Q. How far are your breasts from the man's body?

1 A. Probably a foot, half a foot.

2 Q. And it's your testimony that personally you do not
3 intentionally rub your breasts against any part of a patron?

4 A. No, I do not.

5 Q. What sort of tips do you get after one of these
6 private dances?

7 A. Depends. They give you --

8 Q. What's the range?

9 A. From nothing to a hundred.

10 Q. A hundred dollars?

11 A. Yes.

12 Q. Can you tell us to a certainty or to the best you
13 can if you reached that level that you received a tip of a
14 hundred dollars from a patron you know not to be an undercover
15 police officer?

16 A. Yes.

17 Q. Would a \$20 tip be unusual to receive after one of
18 those dances?

19 A. No.

20 Q. This is a dance now where your breasts have not
21 come into direct contact with a patron in any way?

22 A. Yes.

23 Q. How long would one of these private dances last in
24 which you received a \$20 tip?

25 A. Usually half an hour.

1 Q. How much does that cost?

2 A. \$50.

3 Q. And in that case a \$20 tip would not be
4 unreasonable?

5 A. Yes.

6 Q. How about the \$35, how long does that last?

7 A. Three songs, about 15 minutes.

8 Q. Would a \$20 tip under those circumstances be
9 unusual? Would that be a generous tip?

10 A. Generous.

11 Q. What would you normally expect to get from one of
12 your performances after three songs by way of a tip?

13 A. \$10.

14 Q. \$10 would be customary?

15 A. Yes.

16 Q. Are you aware of any instances where women
17 performing the same type of dances intentionally rub their
18 breasts against either the man's chest, hands, or face?

19 A. No.

20 Q. Never seen that happen?

21 A. No, I don't --

22 Q. Don't recall that happening?

23 A. No, not like -- I mean, if it was out of the
24 normal, I would have recalled it, but not like in a sexual way
25 or anything like that.

1 Q. What do you mean "in a sexual way"? The woman is
2 working, isn't she?

3 A. Yeah, but she's not putting her breasts in his
4 hands or she's not --

5 Q. None of this is sexual for the woman; isn't that
6 right?

7 A. Not for me.

8 Q. For any of the women is this sexual in some way
9 for them?

10 A. I can't speak for all of them.

11 Q. Are you aware of any performers there that do this
12 because they enjoy it sexually?

13 A. No.

14 Q. So they are there performing for a man; is that
15 right?

16 A. Yes.

17 Q. And you would agree with me that men go there with
18 the expectation that the woman will provide him with as much
19 contact between a patron and the dancer as possible?

20 A. On a topless dance?

21 Q. In a topless dance.

22 A. Yes, I'm sure that's what they want.

23 Q. And it must be a constant struggle, then, to keep
24 the man's hands or face off your breasts under those
25 circumstances; is that correct?

1 A. Yes.

2 Q. Does that get frustrating after a while or how do
3 you deal with it?

4 A. It gets frustrating.

5 Q. This is an every-night occasion?

6 A. Yes.

7 Q. How do you deal with this?

8 A. How do I deal with it?

9 Q. Yeah, how do you deal with it?

10 A. I don't like men.

11 Q. I mean -- I guess that's one way of dealing with
12 it when you get home.

13 But how do you deal with it right there when the man has
14 got you on his lap, your arms around his neck, you're half
15 naked?

16 A. If he's trying to touch my breasts and I don't
17 like it, I can ask him no and if he doesn't listen, I can take
18 his hands down.

19 Q. And what sort of tip do you get in an instance
20 where you've actually had to restrain a man's hands?

21 A. Not very much.

22 Q. That's okay?

23 A. Yeah.

24 Q. Do you have a family to support; is that right?

25 A. Yes, I do.

1 Q. Are you married?

2 A. I'm in the process of a divorce.

3 Q. And you have how many children?

4 A. Two.

5 Q. And you're supporting them by yourself?

6 A. Yeah, I am.

7 MR. HAYS: Okay. That's all I had. Thanks very much.

8 I appreciate it.

9 MR. DICAVALCANTE: I don't have any questions. But
10 I'm wondering, Mr. Hays, if I could get you to stipulate to a
11 couple of things that you posited to this witness.

12 Can we stipulate that none of what the dancers do at
13 these places is sexual?

14 MR. HAYS: No. That was a question.

15 MR. DICAVALCANTE: Can we stipulate that it's a
16 constant struggle to keep the men off them?

17 MR. HAYS: No. Those were questions.

18 MR. DICAVALCANTE: I have nothing.

19 My next witness is Tasha Kennison.

20 DIRECT EXAMINATION

21 BY MR. DICAVALCANTE:

22 Q. Would you state your name for the record?

23 A. Tasha Kennison.

24 Q. Miss Kennison, are you employed now?

25 A. Yes.

- 1 Q. How are you employed?
- 2 A. I'm a dancer at Eve's Tease.
- 3 Q. How long have you been a dancer?
- 4 A. A little over a year.
- 5 Q. When did you begin your employment?
- 6 A. February of '96.
- 7 Q. Will you tell us what your shifts were, how often
- 8 you worked, how frequently you worked?
- 9 A. Usually four or five nights a week from 7:00 to
- 10 3:00.
- 11 Q. Has there been any interruption since February of
- 12 1996 since that happened?
- 13 A. (The witness gave a nonverbal response.)
- 14 Q. You have to actually respond in order for the
- 15 court reporter to get it.
- 16 A. No.
- 17 Q. Do you recall the date that you would have gone
- 18 over to Eve's Tease to seek employment?
- 19 A. Yeah.
- 20 Q. And do you recall who it was that you would have
- 21 met over there to talk to about employment?
- 22 A. Anita Welling.
- 23 Q. And were you hired?
- 24 A. Yeah.
- 25 Q. And what was -- what were you hired to do?

1 A. Dancer.

2 Q. A nude dancer?

3 A. Yeah.

4 Q. Did Miss Welling or anyone else in authority or
5 management there at Eve's Tease, as the previous witness has
6 explained, did anybody show you around or tell you the rules or
7 anything like that?

8 A. The next night when I started, they did.

9 Q. Who is they?

10 A. Robert.

11 Q. Robert is someone who is here tonight who is a
12 manager?

13 A. Yes.

14 Q. Will you tell us what you were told in terms of
15 what the rules structures were at Eve's Tease for a nude dancer?

16 A. We're not allowed to let the guys touch any of our
17 private parts, you're not allowed to leave the place with them
18 or have any contact with them. There's no drugs or alcohol on
19 the premises. And we're only allowed to take tips with our
20 hands or from the stage.

21 Q. While you've been an employee, have you been the
22 object of an infraction of any of those rules?

23 A. No.

24 Q. Have any men ever attempted to touch you in
25 private areas?

1 A. Yeah.

2 Q. And what do you do on those occasions?

3 A. I push their hands away.

4 Q. Do you ever have occasion to alert management to
5 that kind of situation?

6 A. Yeah.

7 Q. And have there been any instances where action was
8 taken on the part of management in relation to the customer
9 where you reported some bad conduct?

10 A. Yes.

11 Q. What's happened?

12 A. They got kicked out.

13 Q. How many times has that happened to you
14 personally?

15 A. Like five or six times.

16 Q. Are you personally aware if that has ever happened
17 involving another dancer and another patron?

18 A. Yeah.

19 Q. And is this a matter that occurs with some
20 frequency or rarely?

21 A. It happens a lot.

22 Q. And do you know Greg Welling?

23 A. Yes.

24 Q. Do you know Anita Welling?

25 A. Yes.

1 Q. And is it your testimony that Anita Welling and
2 Greg Welling and any of the managers that you have worked for
3 adhere to the rule structure that you testified you were told by
4 Robert the manager when you began employment?

5 A. Yes.

6 Q. They adhere to those rules?

7 A. Yes.

8 Q. Can you cite for the Board any specific instances
9 of where you recall either Anita, Greg Welling, or a manager
10 adhering to one of these rules that you've talked about?

11 A. If they see the girl doing something wrong, they
12 will tell them not to do it anymore and, if they still do it,
13 then they get fired.

14 Q. Are you personally aware of any girls who have
15 been terminated for misbehavior of any of these rules that
16 you're talking about?

17 A. Yes.

18 Q. Do you have names of those people?

19 A. Vanity, Special, Strawberry, Destiny, Deserai.
20 Those are all I can think of right now.

21 Q. Mr. Hays, I thought, made an actual statement. He
22 calls it a question. But what he had asked the previous witness
23 was: Was it a constant struggle to keep the men off of you
24 while you're working?

25 A. Sometimes.

1 Q. Is -- Would it be your testimony also that at
2 least as far as you go, that what is occurring in terms of the
3 interaction between yourself and the male customer is not
4 sexual?

5 A. No, it's not.

6 Q. It's work?

7 A. Yeah.

8 Q. The previous witness testified that she was aware
9 of signage posted in Eve's Tease in three different places
10 alerting customers and employees to the rules there at Eve's
11 Tease; would you agree with that?

12 A. Yes.

13 Q. Can you tell the Board what you recollect those
14 rules were?

15 A. It tells the customers how they can tip us, they
16 can't have sexual contact with us, they can't touch us, just
17 basic rules.

18 MR. DICAVALCANTE: Nothing further.

19 CROSS-EXAMINATION

20 BY MR. HAYS:

21 Q. Tasha; is that right?

22 A. Tasha.

23 Q. Tasha. Sorry. I'll try and remember that.

24 Tasha, you've been working at Eve's Tease for the last
25 year; is that right?

1 A. Yeah.

2 Q. The evening shift?

3 A. Yes.

4 Q. But you've been working at The Body Shop as well?

5 A. Every now and then, it just depends, not that
6 often.

7 Q. Okay. Now, in your one-year experience at Eve's
8 Tease, have you ever seen a dancer accept a tip from the main
9 stage, a dollar bill tip, from a patron using her breast?

10 A. Yes.

11 Q. You have seen that?

12 A. Yes.

13 Q. Over the last year does that happen on isolated
14 occasions or is it a regular occurrence? How would you describe
15 the frequency?

16 A. It happened for a little while then they enforced
17 the rules and we had to stop doing it.

18 Q. You heard the officers testify earlier; is that
19 right?

20 A. Yes.

21 Q. And the relevant time period there was September,
22 October, November of 1996.

23 Was that the time period at which women were customarily
24 accepting dollar bill tips with their breasts?

25 A. I don't remember.

1 Q. But you can't tell us that that was not the time
2 period when women were accepting dollar bill tips with their
3 breasts?

4 A. No, I can't tell you that.

5 Q. And over the period of time when they were doing
6 that, were they doing it by taking their hands and placing their
7 hands on the side of their breasts, squeezing their breasts
8 together to remove the dollar bill tip from the patron's hand?

9 A. Yes.

10 Q. Had you personally yourself ever done that at any
11 point at all last year?

12 A. Yeah, I've done it.

13 Q. And have you ever seen, over the last year, a
14 woman while totally naked on the main stage place any part of
15 her hand on her genitals?

16 A. Yes.

17 Q. And on those occasions when it did happen, do you
18 know if a manager was aware of the act?

19 A. If he sees it, he says something, but, if he
20 doesn't see it, he can't say anything.

21 Q. Let's see if we can focus on the time period where
22 the women were accepting dollar bill tips with their breasts.

23 Do you recall if there were any occasions where a woman
24 was totally naked on the main stage during this time period and
25 placing her hands on her genitals while management observed and

1 said nothing?

2 A. I don't recall.

3 Q. Don't recall if those circumstances ever existed?

4 A. I've never seen it happen. I've never seen
5 managers watch that and not say anything.

6 Q. What would they say?

7 A. They would tell them not to do it anymore and if
8 they kept doing it then they would be terminated.

9 Q. Why would a woman do something like that if she
10 knew she was going to be terminated?

11 A. I don't know. I can't speak for other women. I
12 don't know. More money maybe.

13 Q. I know you can't, but you work in this type of
14 business, you do exactly what they do. So, if you can shed some
15 light on it, I'd like you to do that.

16 A. Maybe for more money. I don't know.

17 Q. Would a woman earn more tips if she were to do
18 that sort of thing on the main stage?

19 A. I'm sure she would, yeah.

20 Q. Have you seen a woman earn more tips doing that?

21 A. Yeah.

22 Q. Have you ever observed a woman while performing in
23 the private topless dance area intentionally place her breasts
24 in contact with a patron?

25 A. No.

1 Q. Never seen that happen?

2 A. No.

3 Q. So you've never been required to report something
4 like that to management?

5 A. If I see a customer touching a girl's breast, I'll
6 tell them or, if she's letting him, I will. But I've never seen
7 a girl purposely put his hands there or anything.

8 Q. All right. But you have seen a situation where
9 the man placed his hands on the woman's breasts and she would
10 not immediately remove his hands?

11 A. Yes.

12 Q. That has occurred?

13 A. Yes.

14 Q. And when it does occur, you report it to
15 management?

16 A. Yes.

17 Q. And when you say you report it to management, who
18 qualifies as management?

19 A. Robert.

20 Q. Robert. What's Robert's last name?

21 A. I don't know his last name.

22 Q. Is that his real name as far as you know?

23 A. Yeah.

24 Q. You're sure that's his real name?

25 A. Yeah.

1 Q. Okay. And who else?

2 A. Greg.

3 Q. That's Greg who?

4 A. Welling.

5 Q. The owner?

6 A. Yeah.

7 Q. Anybody else?

8 A. And Tim.

9 Q. Tim Wheeler?

10 A. Yeah.

11 Q. Anybody else?

12 A. No.

13 Q. Are you acquainted with the system where a private
14 dance is paid for by paying the money to a waitress?

15 A. Yes.

16 Q. Who then arranges for the dance to be performed by
17 a dancer?

18 A. Yes.

19 Q. Do any of the women who accept the money for those
20 dances qualify in your mind as management?

21 A. Could you repeat the question?

22 Q. The women that accept the money for the private
23 dances, are they managers?

24 A. No.

25 Q. Do they have a title in the business?

1 A. Waitresses.

2 Q. Waitress. They are not floor managers?

3 A. No.

4 Q. Is it your understanding that a private dancer
5 cannot accept money herself for that private dance?

6 A. She can accept -- Not the money for the show. She
7 can accept tips, but not the show.

8 Q. Okay. The show money has to be accepted by
9 somebody else?

10 A. Yes.

11 Q. She can accept the tip?

12 A. Yes.

13 Q. What's the range of tips you've received at Eve's
14 Tease while performing in the private dance area?

15 A. It just depends on how long the show is.

16 Q. Okay. What's the range of shows? Do you have a
17 three song \$35 show?

18 A. Yes.

19 Q. What do you normally receive in the way of tips
20 there?

21 A. Between ten and \$15.

22 Q. And how about -- Is it a half-hour show for \$50?

23 A. Uh-huh.

24 Q. What's the typical range of tips there?

25 A. 20 to \$25.

1 Q. Is there a longer show than that?

2 A. An hour.

3 Q. An hour show?

4 A. Uh-huh.

5 Q. How much does that cost?

6 A. A hundred dollars.

7 Q. What kind of tips do you get there?

8 A. Forty or fifty.

9 Q. Dollars as a tip?

10 A. Yeah.

11 Q. And have you ever performed an hour show?

12 A. Yeah.

13 Q. What are you doing for an entire hour for this
14 hundred dollars?

15 A. Sometimes you just sit there and talk to the guy.
16 I mean you don't sit there and dance for the whole time. You
17 sit and you talk and you dance.

18 Q. Do you sit in his lap?

19 A. I sit in a chair and talk to him, I don't sit on
20 his lap when we're talking.

21 Q. Do you ever sit on a man's lap?

22 A. Yes.

23 Q. One last thing that just occurred to me. You've
24 got a situation where you can earn forty or \$50 as a tip for an
25 hour's work, do you do anything to help encourage a patron to

1 purchase one of these private dances?

2 A. No. I just ask him if he wants a table dance. If
3 he says no then I just go to the next guy.

4 Q. Until you eventually find one, somebody that says
5 yes?

6 A. Yes.

7 Q. You don't sit and talk to the man for a while?

8 A. No.

9 Q. You don't try and get to know him?

10 A. No.

11 Q. You don't touch him in any way?

12 A. No. I shake his hand when I introduce myself.

13 Q. Do you have pretty good success with that system
14 in getting men to hire you to do these private dances?

15 A. Yes.

16 Q. Is that sort of conduct typical in the business?

17 A. No.

18 Q. Are some women more aggressive than others?

19 A. Most of the girls they sit and talk to the guys
20 but I don't like to, so I just ask them if they want a table
21 dance. If they don't, then I just move on.

22 MR. HAYS: That's all I had.

23 REDIRECT EXAMINATION

24 BY MR. DICAVALCANTE:

25 Q. I had just a couple things and I'm glad you

1 brought it up, that many instances of where someone is buying a
2 half hour of your time or whatever, there's a good portion of
3 that time that is taken up from just sitting there and talking
4 to them, correct?

5 A. Yes.

6 Q. And that is typical in the business; is that
7 correct?

8 A. Yes.

9 Q. Conversation occupies a significant period of the
10 time that they buy?

11 A. Yes.

12 Q. Did you say that you had or had not also worked at
13 The Body Shop?

14 A. I have.

15 Q. And would it be your testimony that the rules
16 structure and the conveyance to you of what the rules were at
17 The Body Shop would be the same testimony you gave with regard
18 to Eve's Tease?

19 A. Yes.

20 Q. I think that Mr. Hays asked you this question, but
21 let me -- This is my last question.

22 Have you -- When you witnessed misbehavior on the part
23 of the girls breaching rules or whatever, have you reported that
24 to management?

25 A. Yes.

1 Q. And what -- In each instance that you can
2 remember, can you summarize for the Board what management's
3 reaction has been to your telling about these things happening?

4 A. They go and they tell the girl when she's done
5 with her show that she can't do that and what she did wrong and
6 if she does it again she'll be fired.

7 MR. DICAVALCANTE: Thank you very much.

8 Mr. Hays?

9 RECROSS-EXAMINATION

10 BY MR. HAYS:

11 Q. I have one last question, Tasha.
12 Are you being paid anything for being here today?

13 A. No.

14 MR. HAYS: Okay. Thank you.

15 MR. SNOW: Okay.

16 MR. DICAVALCANTE: I have two more witnesses.

17 MR. SNOW: That's fine.

18 MR. DICAVALCANTE: Is that okay? Does anybody want to
19 take a break?

20 MR. SNOW: No.

21 MR. DICAVALCANTE: Mr. Matthews?

22 DIRECT EXAMINATION

23 BY MR. DICAVALCANTE:

24 Q. Would you state your name, sir?

25 A. Robert Matthews.

1 Is it possible that a woman could masturbate herself in
2 one of the private rooms for ten minutes without your knowledge?

3 A. Yes.

4 Q. Is it possible, based upon everything you
5 described yourself as doing behind the bar, that a woman could
6 masturbate herself on the main stage without your knowing it?

7 A. I suppose, yes.

8 Q. Is it possible that a woman could accept a dollar
9 tip between her breasts using her hands in the outside of her
10 breasts to remove the dollar bill without your knowing it?

11 A. That's right.

12 Q. In fact, are you aware of any of those incidents
13 occurring which you were not aware of at the time they occurred,
14 but later became aware of?

15 A. Yes.

16 Q. How were those incidents brought to your
17 attention?

18 A. People that were managing stated that the girls
19 weren't accepting tips like every other club in town and I said,
20 "How is that?"

21 And they said, "Between the breasts." So basically
22 that's what they told me.

23 Q. You understand that your business competes with
24 similar-type businesses in the City of Phoenix; is that right?

25 A. I suppose, yes.

BEFORE THE LICENSE APPEAL BOARD.

MAY 29 1997 2:25
CITY ATTORNEY'S OFFICE

In re: The License Revocation)
)
Proceedings of Eve's Tease and)
)
The Body Shop,)
)
)
Licensees/Respondents.)
)

LICENSE APPEAL BOARD HEARING

RE: EVE'S TEASE AND THE BODY SHOP

VOLUME II

Phoenix, Arizona
May 29, 1997
5:47 p.m.

PREPARED FOR:
JAMES H. HAYS

(ORIGINAL)

PREPARED BY:
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I N D E X

WITNESS: Thomas Robert Kulesa

Further Redirect Examination by Mr. Hays on page 224, 293

WITNESS: William Mellinger

Further Redirect Examination by Mr. Hays on page 261, 295

WITNESS: Donald Casey

Further Redirect Examination by Mr. Hays on page 277, 295

E X H I B I T S

- Exhibits 8 was marked on page 200
- Exhibits 9 and 10 were marked on page 206
- Exhibits 11 and 12 were marked on page 230
- Exhibits 12b and 13 were marked on page 260
- Exhibit 14 was marked on page 274
- Exhibit 15 was marked on page 296
- Exhibit 16 was marked on page 315

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LICENSE APPEAL BOARD HEARING, VOLUME II,

commencing at 5:47 p.m., on May 29, 1997, 200 West Washington,
Phoenix, Arizona 85003, before Sandy Marruffo, a Notary Public
in and for the County of Maricopa, State of Arizona.

A P P E A R A N C E S

FOR THE CITY OF PHOENIX

Office of the City Attorney
200 West Washington Street
Phoenix, Arizona 85003-1411
(602) 262-6761

BY: Mr. James H. Hays

BOARD MEMBERS

Larry Snow
Boyd Heckel
Dempster Jackson
Jason Morris

ALSO PRESENT

Ida Alonge, Business License Services Clerk
Lorraine Hunt, Business License Services Clerk

1 MR. HAYS: If I might, Mr. Chair, we've already agreed
2 to hear them together, so I believe it would be entirely
3 appropriate, should you have a question on Eve's Tease later, to
4 go ahead and ask it.

5 MR. SNOW: Noted. But my intent actually was just to
6 be sure that any question that had been waiting was being given
7 a chance to be answered now.

8 Okay. There are none. Please continue.

9 FURTHER REDIRECT EXAMINATION

10 BY MR. HAYS:

11 Q. Detective, would you state your full name for us
12 please?

13 A. Thomas Robert Kulesa. Last name is K-U-L-E-S-A.

14 Q. And are you still employed with the Phoenix Police
15 Department as a detective in the Vice enforcement unit?

16 A. Yes, sir.

17 Q. And you participated in an investigation of The
18 Body Shop Cabaret last year; is that right?

19 A. Yes, sir.

20 Q. And why don't you tell us where The Body Shop
21 Cabaret is.

22 A. It's located at 3790 Northwest Grand Avenue,
23 Phoenix, Arizona, Maricopa County.

24 Q. And you've been inside that business, haven't you?

25 A. Yes, sir.