

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :
: :
Arlington Beverage Corp. t/a :
Sheffield Wine and Liquors : Show
5025 Connecticut Ave., NW : Cause
Retailer A - ANC-3F : Hearing
License No. 60563 :
Case #12-CMP-00497 :
: :
(Sold Fewer than Six :
Miniature Bottles of Spirits :
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January 30, 2013

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, 2000 14th Street, N.W., Suite 400S Washington, D.C. 20009, Chairperson Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
HERMAN JONES, Member

DONALD BROOKS, Member
MIKE SILVERSTEIN, Member

ALSO PRESENT:

FERNANDO RIVERO, OAG

P-R-O-C-E-E-D-I-N-G-S

(2:29 p.m.)

1
2
3 CHAIRPERSON MILLER: The next case
4 on our calendar is Case No. 12-CMP-00497,
5 Sheffield Wine and Liquors located at 5025
6 Connecticut Avenue, N.W., License No. 60563 in
7 ANC-3F.

8 MR. RIVERO: Good afternoon, Board
9 Members. Fernando Rivero for the District of
10 Columbia. I'm appearing for myself. This is
11 my case.

12 CHAIRPERSON MILLER: Good. Okay.
13 And would you introduce yourself for the
14 record, please?

15 MS. DAYHOFF: Nam Dayhoff for
16 Sheffield.

17 CHAIRPERSON MILLER: And you are
18 the owner?

19 MS. DAYHOFF: Yes.

20 CHAIRPERSON MILLER: Okay. All
21 right. And this is a Show Cause Hearing.

22 And, Mr. Rivero, are there any

1 preliminary matters?

2 MR. RIVERO: Yes, there is one
3 preliminary matter.

4 CHAIRPERSON MILLER: All right.

5 MR. RIVERO: The Government wants
6 to make a Motion to Amend the Notice of Show
7 Cause in this matter. The Notice of Show
8 Cause in this matter reads that "On Friday,
9 August 17, there was an investigator with an
10 undercover capacity made a purchase." And
11 then that's the first sentence. The second
12 sentence is "Another ABRA investigator made
13 the same purchase on August 22, 2012."

14 The motion would be to strike that
15 sentence. There is only one sale in this case
16 and not two. That's the motion for the
17 Government.

18 CHAIRPERSON MILLER: Okay. I
19 assume you don't object to striking this other
20 charge?

21 MS. DAYHOFF: No objection.

22 CHAIRPERSON MILLER: Okay. Then

1 the motion is granted. Okay. Does that
2 conclude the preliminary matters?

3 MR. RIVERO: Yes, that concludes
4 the preliminary matter.

5 CHAIRPERSON MILLER: Okay. So we
6 are going forward with the hearing and I just
7 want to ask you if you have -- Ms. Dayhoff, is
8 that your name?

9 MS. DAYHOFF: Yes, Dayhoff.

10 CHAIRPERSON MILLER: If you have
11 participated in one of these hearings before?

12 MS. DAYHOFF: No.

13 CHAIRPERSON MILLER: Okay. So I'm
14 just going to tell you the order of procedure,
15 basically, so you know what is going on and
16 then if you have any questions as we go along
17 feel free to ask me.

18 MS. DAYHOFF: Okay.

19 CHAIRPERSON MILLER: Okay. So the
20 Government has the burden of proof. The first
21 thing that Mr. Rivero is going to do, most
22 likely, is give an opening statement about

1 what he is going to show and what he is going
2 to prove in his case.

3 MS. DAYHOFF: Okay.

4 CHAIRPERSON MILLER: Then you have
5 the option of doing the same thing with your
6 case or you can wait and do it when it is your
7 turn to present your case.

8 MS. DAYHOFF: Okay.

9 CHAIRPERSON MILLER: Or not at
10 all. You are not required. And then Mr.
11 Rivero will call his witnesses and ask them
12 questions. They will present testimony. You
13 can cross-examine --

14 MS. DAYHOFF: Okay.

15 CHAIRPERSON MILLER: -- his
16 witnesses and we can as well. And then he can
17 put documents in evidence, but he will show
18 them to you first and you will have an
19 opportunity to object --

20 MS. DAYHOFF: Okay.

21 CHAIRPERSON MILLER: -- if you
22 want. And then when he finishes his case, you

1 will do the same thing. And then there will
2 be closing, where you sum up what you have
3 shown your case to be.

4 MS. DAYHOFF: Okay.

5 CHAIRPERSON MILLER: Okay. So why
6 don't we turn to Mr. Rivero then.

7 MR. RIVERO: Thank you. Board
8 Members, we are here in the matter of
9 Sheffield Wine and Liquors and today the
10 Government will show through testimony that
11 the establishment permitted the sale of fewer
12 than six miniatures to be sold, and
13 particularly, one miniature container of
14 alcohol was sold, which was in violation of DC
15 Code 25-751.2001. And we will demonstrate
16 that that sale took place in violation of the
17 law through the testimony of our Investigator
18 Tyrone Lawson.

19 CHAIRPERSON MILLER: Okay.

20 MS. DAYHOFF: No objection.

21 CHAIRPERSON MILLER: Okay. Do you
22 have any opening statement now or --

1 MS. DAYHOFF: No, I just wait.

2 CHAIRPERSON MILLER: Okay. And I
3 just --

4 MS. DAYHOFF: I just wait.

5 CHAIRPERSON MILLER: What?

6 MS. DAYHOFF: I just wait and
7 listen to the witness.

8 CHAIRPERSON MILLER: That's fine.

9 MS. DAYHOFF: Then I will have
10 questions of him.

11 CHAIRPERSON MILLER: Yes. Okay.
12 And you have one witness, Mr. Lawson, correct?

13 MR. RIVERO: Only, yes.

14 CHAIRPERSON MILLER: Okay. And do
15 you have a witness or it just may be yourself?

16 MS. DAYHOFF: Yes.

17 CHAIRPERSON MILLER: Okay. Okay.
18 You may call your first witness then. Your
19 first and only.

20 MR. RIVERO: Mr. Lawson.

21 CHAIRPERSON MILLER: Good
22 afternoon, Mr. Lawson.

1 INVESTIGATOR LAWSON: Good

2 afternoon, Madam Chair.

3 Whereupon,

4 INVESTIGATOR TYRONE LAWSON

5 was called as a witness by Counsel for the

6 Government, and having been first duly sworn,

7 assumed the witness stand and was examined and

8 testified as follows:

9 CHAIRPERSON MILLER: Thank you.

10 Okay.

11 DIRECT EXAMINATION

12 MR. RIVERO: Good afternoon.

13 Please, state your first and last name for the

14 record.

15 INVESTIGATOR LAWSON: Tyrone

16 Lawson.

17 MR. RIVERO: Mr. Lawson, what is

18 your occupation?

19 INVESTIGATOR LAWSON: An

20 investigator with the Alcoholic Beverage

21 Regulation Administration.

22 MR. RIVERO: And how long have you

1 been in that position?

2 INVESTIGATOR LAWSON:

3 Approximately, three and a half years.

4 MR. RIVERO: And what are your
5 duties as an ABRA Investigator?

6 INVESTIGATOR LAWSON: To conduct
7 inspections and investigations of ABC licensed
8 establishments within the District of
9 Columbia.

10 MR. RIVERO: Okay. And are you
11 familiar with the establishment known as
12 Sheffield Wine and Liquors?

13 INVESTIGATOR LAWSON: Yes.

14 MR. RIVERO: And how are you
15 familiar with this establishment?

16 INVESTIGATOR LAWSON: On
17 approximately August 17, 2012, I conducted an
18 undercover operation at the establishment when
19 I was checking establishments for compliance
20 with container size and go-cup sales and sales
21 of miniatures and packages of less than six.

22 MR. RIVERO: Okay. And when you

1 got to the establishment, what did you do?

2 INVESTIGATOR LAWSON: I entered
3 the establishment. I saw that they had
4 plastic plexiglass case with miniature bottles
5 of alcoholic beverages in the middle of the
6 counter and I asked to purchase a single
7 bottle of Glenlivet Scotch.

8 MR. RIVERO: Is that an alcoholic
9 beverage?

10 INVESTIGATOR LAWSON: Yes.

11 MR. RIVERO: And to whom did you
12 direct that request?

13 INVESTIGATOR LAWSON: There were
14 two males there at the time that I entered.
15 And one of the males took the bottle of
16 Glenlivet out the cabinet and rung the
17 purchase up. I gave him a \$10 bill and he
18 gave me back -- or he told me it was \$7.70.
19 I gave him a \$10 bill and he gave me change
20 and the bottle of alcoholic beverage.

21 MR. RIVERO: Then what did you do?

22 INVESTIGATOR LAWSON: I put it in

1 my pocket and exited the establishment.

2 MR. RIVERO: Okay. And what
3 happened after you exited the establishment?

4 INVESTIGATOR LAWSON: I continued
5 to check other establishments along
6 Connecticut Avenue for compliance with
7 container size and go-cup and miniatures in --
8 less than six, sold in packages of less than
9 six.

10 And after I completed the check of
11 the other establishments, I returned to ABRA
12 where I photographed the bottle of Glenlivet
13 that I purchased from Sheffield Wine and
14 Liquors and I completed an evidence
15 transmittal sheet and stored the alcoholic
16 beverage in my locked cabinet until I could
17 turn it over to the chief of enforcement for
18 securing in the evidence locker.

19 MR. RIVERO: Okay. Let me go
20 ahead and show you a document that I have
21 marked Government's Exhibit No. 1 for
22 identification.

1 (Whereupon, the document was
2 marked as Government Exhibit 1 for
3 identification.)

4 MR. RIVERO: A copy of which has
5 been shared with the licensee and copies of
6 which are available to the Board. What does
7 that look like to you?

8 INVESTIGATOR LAWSON: That is a
9 photocopy of the picture that I took of the
10 bottle of Glenlivet that I purchased from
11 Sheffield Wine and Liquors on August 17, 2012.

12 MR. RIVERO: Okay. This is a
13 photocopy, correct?

14 INVESTIGATOR LAWSON: Yes.

15 MR. RIVERO: Is this an accurate
16 photocopy of what -- the photograph that you
17 took?

18 INVESTIGATOR LAWSON: Yes.

19 MR. RIVERO: Okay. The Government
20 would move into evidence, at this time, a
21 photocopy of the photograph of the bottle in
22 question that the witness took.

1 CHAIRPERSON MILLER: You have a
2 copy of the picture. Do you have any
3 objection?

4 MS. DAYHOFF: I do have it.

5 CHAIRPERSON MILLER: Do you have
6 an objection to this document going into
7 evidence?

8 MS. DAYHOFF: No.

9 CHAIRPERSON MILLER: Okay. Thank
10 you. Okay. So Exhibit 1 is the photo of the
11 Glenlivet and admitted as Government's Exhibit
12 No. 1.

13 (Whereupon, the document marked as
14 Government Exhibit 1 was received
15 in evidence.)

16 CHAIRPERSON MILLER: Okay.

17 MR. RIVERO: Okay. So again, it's
18 an alcoholic beverage, is it not?

19 INVESTIGATOR LAWSON: Yes.

20 MR. RIVERO: I'm want to go ahead
21 and show you a quick document right now which
22 I've marked Government's Exhibit 2 for

1 identification.

2 (Whereupon, the document was
3 marked as Government Exhibit 2 for
4 identification.)

5 MR. RIVERO: A copy of which has
6 been shown to the licensee and copies of which
7 are available for Board Members.

8 What does that document look like
9 to you, Mr. Lawson?

10 INVESTIGATOR LAWSON: This is a
11 photocopy of the original ABRA Evidence
12 Transmittal Sheet that I completed for the
13 storage of the bottle of Glenlivet that I
14 purchased from Sheffield Wine and Liquors on
15 August --

16 MR. RIVERO: Would you say that's
17 an accurate copy of the form that you
18 completed?

19 INVESTIGATOR LAWSON: Yes.

20 MR. RIVERO: Okay. The Government
21 would move into evidence, at this time,
22 Government's Exhibit 2, which is a copy of the

1 transmittal sheet that the witness completed.

2 CHAIRPERSON MILLER: Do you have
3 any objection?

4 MS. DAYHOFF: No objection.

5 CHAIRPERSON MILLER: Okay. Okay.
6 The Evidence Transmittal Sheet is admitted as
7 Government's Exhibit No. 2.

8 (Whereupon, the document marked as
9 Government Exhibit 2 was received
10 in evidence.)

11 MR. RIVERO: I want to ask you how
12 soon after the purchase did you complete that
13 form? Was it the same day?

14 INVESTIGATOR LAWSON: Yes, it was
15 the same day. It was within a matter of
16 probably two hours.

17 MR. RIVERO: Okay.

18 INVESTIGATOR LAWSON: I would --
19 I'm pretty sure of that.

20 MR. RIVERO: All right.

21 INVESTIGATOR LAWSON: I don't have
22 the exact time, but it was --

1 MR. RIVERO: Okay. No further
2 questions.

3 CHAIRPERSON MILLER: Okay. Now,
4 do you have some questions?

5 MS. DAYHOFF: Yes.

6 CHAIRPERSON MILLER: Okay.

7 CROSS-EXAMINATION

8 MS. DAYHOFF: Good afternoon, Mr.
9 Lawson.

10 INVESTIGATOR LAWSON: Good
11 afternoon.

12 MS. DAYHOFF: You said that you
13 came in Sheffield at 2:30.

14 INVESTIGATOR LAWSON: Yes, ma'am.

15 MS. DAYHOFF: From whom did you
16 buy that bottle of Glenlivet?

17 INVESTIGATOR LAWSON: I didn't
18 have -- I don't recall the name. I didn't
19 know the name at the time that I made the
20 purchase, but when I went back to inform them
21 of the violation, they told me -- the two
22 males told me that both of them were members

1 of the corporation.

2 MS. DAYHOFF: Okay.

3 INVESTIGATOR LAWSON: And I did
4 check and follow-up.

5 MS. DAYHOFF: Excuse me. When you
6 come back, did you saw the two males, was the
7 person that sold you that bottle were he
8 there?

9 INVESTIGATOR LAWSON: Yes.

10 MS. DAYHOFF: Okay. Did you ask
11 for the receipt when you bought the Glenlivet?

12 INVESTIGATOR LAWSON: No.

13 MS. DAYHOFF: Why not?

14 INVESTIGATOR LAWSON: It's not my
15 common practice to ask for a receipt.

16 MS. DAYHOFF: But I thought that
17 the ABC requirement as the undercover agent
18 when you go doing investigation like this, you
19 -- after they violate the requirement, then
20 you have to present your badge and say that,
21 hey, you violated the law.

22 You didn't do that? You just left

1 Sheffield?

2 INVESTIGATOR LAWSON: Is that a
3 question?

4 MS. DAYHOFF: And then -- yes.

5 INVESTIGATOR LAWSON: What's your
6 question, please?

7 MS. DAYHOFF: Why didn't you
8 present a badge?

9 INVESTIGATOR LAWSON: Because I
10 was --

11 MS. DAYHOFF: And say that you
12 violate the law -- the requirements?

13 INVESTIGATOR LAWSON: Well,
14 initially, when I made the purchase, I did not
15 present my badge or identify myself, because
16 I was in an undercover capacity. When I went
17 back, I did identify myself and I showed my
18 badge to the two gentlemen that were in the
19 establishment.

20 And I explained to them that the
21 violation had occurred.

22 MS. DAYHOFF: Didn't you think it

1 better that you did that at the time when you
2 purchased the Glenlivet?

3 INVESTIGATOR LAWSON: No.

4 MS. DAYHOFF: Why not?

5 INVESTIGATOR LAWSON: Because the
6 practice of the undercover operation is not to
7 disclose or not to identify yourself, so that
8 you can check compliance without being
9 acknowledged as an Agent of the Government.
10 That defeats the purpose of operating in an
11 undercover capacity because you are exposing
12 yourself as a Government or an investigator
13 for the Government.

14 MS. DAYHOFF: I disagree.

15 INVESTIGATOR LAWSON: Okay.

16 CHAIRPERSON MILLER: Okay. Let me
17 just say something, because you are not an
18 attorney and the proceedings are new to you.

19 MS. DAYHOFF: Yes.

20 CHAIRPERSON MILLER: For the most
21 part, you use this opportunity to ask him
22 questions, so that -- and you can use your --

1 later the opportunity to make statements.

2 MS. DAYHOFF: Okay.

3 CHAIRPERSON MILLER: Like when you
4 are testifying.

5 MS. DAYHOFF: Okay.

6 CHAIRPERSON MILLER: Okay.

7 MS. DAYHOFF: So --

8 CHAIRPERSON MILLER: Do you have
9 any other questions?

10 MS. DAYHOFF: No questions.

11 CHAIRPERSON MILLER: You're done?

12 MS. DAYHOFF: Yes.

13 CHAIRPERSON MILLER: Okay. Are
14 there Board questions?

15 Mr. Lawson, I'm just curious why
16 wouldn't you ask for a receipt?

17 INVESTIGATOR LAWSON: Well, they--
18 in an undercover capacity, we don't usually --
19 I -- it's my practice not to ask for a
20 receipt, because I don't want to -- usually in
21 that kind of environment, it triggers
22 suspicion in the people's mind that why is he

1 asking for a receipt.

2 CHAIRPERSON MILLER: Okay.

3 INVESTIGATOR LAWSON: And then on
4 top of that, if I do, normally, I wouldn't
5 even disclose my undercover capacity after I
6 made the purchase. Someone else will go to
7 that establishment and do it.

8 At the time that it was done, no
9 one else was available and I wanted to let
10 them know as soon as possible that the
11 violation had occurred. That's why
12 Investigator Parker went in later and actually
13 wrote the citation ahead of time for me.
14 Actually, I wrote the citation. He just
15 presented it to them.

16 But had I done that and had I
17 called or notified them later, they would have
18 recalled oh, it must have been the person that
19 asked for the receipt, because that's kind of
20 suspicious for them to specifically -- had I
21 made a larger purchase, that's reasonable.

22 CHAIRPERSON MILLER: Okay. Okay.

1 INVESTIGATOR LAWSON: But for a
2 small bottle, a 50 milliliter bottle is --

3 CHAIRPERSON MILLER: Right.

4 INVESTIGATOR LAWSON: -- not
5 reasonable.

6 CHAIRPERSON MILLER: Okay. Okay.
7 Thank you.

8 INVESTIGATOR LAWSON: In my
9 opinion.

10 CHAIRPERSON MILLER: Okay. Any
11 other Board questions? Any, yes, redirect?
12 Okay.

13 REDIRECT EXAMINATION

14 MR. RIVERO: Mr. Lawson, you
15 testified that you have been an investigator
16 for three years.

17 INVESTIGATOR LAWSON: Yes.

18 MR. RIVERO: And in those three
19 years, according to your experience, have you
20 had any such experience or are you aware of
21 such instances where asking for a receipt, in
22 fact, compromised or almost compromised your

1 law enforcement objective at the time?

2 INVESTIGATOR LAWSON: Yes.

3 MR. RIVERO: Thank you. No
4 further questions.

5 CHAIRPERSON MILLER: Okay. Do you
6 have any other --

7 MS. DAYHOFF: Did you say that I
8 cannot make mistake, but might just be --

9 CHAIRPERSON MILLER: Not now.

10 MS. DAYHOFF: -- question?

11 CHAIRPERSON MILLER: Hold your
12 statement.

13 MS. DAYHOFF: Okay.

14 CHAIRPERSON MILLER: You can make
15 statements when you testify.

16 MS. DAYHOFF: Okay.

17 CHAIRPERSON MILLER: Just not when
18 you are --

19 MS. DAYHOFF: Okay.

20 CHAIRPERSON MILLER: -- he is on
21 the stand. Right, okay. Do you have any
22 other questions?

1 MS. DAYHOFF: No.

2 CHAIRPERSON MILLER: Okay. All
3 right. Thank you very much.

4 (Whereupon, witness was excused.)

5 CHAIRPERSON MILLER: Does that
6 conclude your case?

7 MR. RIVERO: It does.

8 CHAIRPERSON MILLER: Okay. Ms.
9 Dayhoff, now you can make an opening statement
10 if you would like or --

11 MS. DAYHOFF: An opening or
12 conclusion?

13 CHAIRPERSON MILLER: Well, the
14 opening is just -- you don't have to. If you
15 wanted to or just say what you are going to
16 say.

17 MS. DAYHOFF: Okay.

18 CHAIRPERSON MILLER: And then your
19 testimony is what you say. And then your
20 closing is what you said. You say what you
21 said.

22 MS. DAYHOFF: Well, I really don't

1 know what decision you, the Board, going to
2 make so --

3 CHAIRPERSON MILLER: Okay. You
4 know what, I think I'm going to put you under
5 oath now, because you are not sure, because
6 you are going to be testifying.

7 MS. DAYHOFF: Okay.

8 CHAIRPERSON MILLER: Okay. So
9 like, Mr. Lawson, if you are comfortable
10 there, you can stay there, but I need you to
11 raise your hand. Raise your right hand.
12 Whereupon,

13 NAM DAYHOFF
14 was called as a witness for the licensee, and
15 having been first duly sworn, assumed the
16 witness stand and was examined and testified
17 as follows:

18 CHAIRPERSON MILLER: Okay.

19 DIRECT EXAMINATION

20 MS. DAYHOFF: I don't know what
21 decision you are going to make when this case
22 fall into your hands, but, at the beginning,

1 I could just pay the fine and be over with.
2 But I'm here to fight for the principle of it.

3 And you can't just make an
4 accusation without any solid evidence. So I
5 mean, I respect Mr. Lawson's job, but it would
6 be much better if he did or that none of us
7 would have to be here today.

8 So I hope that you do take this
9 into consideration and make the right
10 decision. Thank you.

11 CHAIRPERSON MILLER: Do you have
12 any questions? None? Okay. Board questions?

13 Are you contesting that Mr. Lawson
14 bought the miniature at your store?

15 MS. DAYHOFF: I don't know.
16 Without a receipt, I really don't know.

17 CHAIRPERSON MILLER: Okay. I just
18 wanted to make sure I understood your
19 position. So your position is you don't know
20 if that happened?

21 MS. DAYHOFF: Right.

22 CHAIRPERSON MILLER: Okay. All

1 right.

2 MEMBER BROOKS: I have a question.

3 CHAIRPERSON MILLER: Do you have a
4 question?

5 MEMBER BROOKS: Yes, just briefly.

6 CHAIRPERSON MILLER: Yes, please.

7 MEMBER BROOKS: Ms. Dayhoff, were
8 you there at the time that he made the
9 purchase? Did your employees come to you and
10 tell you that an ABRA Investigator made a
11 purchase of one miniature?

12 MS. DAYHOFF: No.

13 MEMBER BROOKS: No one told you
14 anything?

15 MS. DAYHOFF: Not until Mr. Lawson
16 came back with the citation.

17 MEMBER BROOKS: Yes, okay. But
18 were you there then?

19 MS. DAYHOFF: No.

20 MEMBER BROOKS: Okay.

21 MS. DAYHOFF: No. I did not work
22 in the afternoon.

1 MEMBER BROOKS: Okay. And after
2 he came back and talked with your employees --

3 MS. DAYHOFF: Yes.

4 MEMBER BROOKS: -- did they pick
5 up the phone and call you and tell you?

6 MS. DAYHOFF: That Mr. Lawson came
7 and give us the citation?

8 MEMBER BROOKS: Yes, yes.

9 MS. DAYHOFF: Not until the next
10 morning.

11 MEMBER BROOKS: Okay. All right.
12 Okay. Thank you, Madam Chair.

13 CHAIRPERSON MILLER: Did they say
14 anything about whether they had sold the
15 Glenlivet or not?

16 MS. DAYHOFF: They said they did
17 not.

18 CHAIRPERSON MILLER: They said
19 they did not. Okay. All right. Any other
20 questions? Okay. Anything else you want to
21 put into evidence?

22 MS. DAYHOFF: I just want to add

1 one thing to the file if you don't have any
2 objection. And it's just to show that --

3 MR. RIVERO: No objection.

4 MS. DAYHOFF: -- okay.

5 CHAIRPERSON MILLER: What is it?

6 MEMBER ALBERTI: Ms. Walker? Ms.
7 Walker will --

8 CHAIRPERSON MILLER: Ms. Walker
9 will take it. Okay. Do you want to put this
10 into evidence?

11 MS. DAYHOFF: Yes.

12 CHAIRPERSON MILLER: And you don't
13 have any objection?

14 MR. RIVERO: I don't have a copy,
15 but I looked at it and have no objection.

16 CHAIRPERSON MILLER: Okay. What
17 it is is a certificate awarded to Sheffield
18 Wine and Liquors for 100 percent compliance
19 check in July 2012 for enforcement of underage
20 drinking program. Okay. This would be
21 Licensee's Exhibit No. 1. So that's admitted
22 into evidence.

1 (Whereupon, the document was
2 marked for identification as
3 Licensee Exhibit 1 and was
4 received in evidence.)

5 CHAIRPERSON MILLER: But would you
6 like us to make a copy of this and --

7 MS. DAYHOFF: I have.

8 CHAIRPERSON MILLER: You have?

9 MS. DAYHOFF: And an original.

10 MR. RIVERO: I'm fine.

11 CHAIRPERSON MILLER: Okay. Good.

12 All right. All right. So that's that. All
13 right.

14 If there is nothing else to be put
15 into evidence, then we will do closings.

16 Okay. Mr. Rivero, you go first.

17 MR. RIVERO: Thank you.

18 CHAIRPERSON MILLER: Okay.

19 MR. RIVERO: As the Board sees,
20 this is a fairly simple case and we have a
21 transaction that took place. My understanding
22 is the licensee believes that the absence of

1 a receipt is enough to defeat the evidence
2 that the Government has presented, which is
3 not the case, since my job here is only to
4 prove something by a preponderance and not
5 beyond a reasonable doubt.

6 I would think that if my burden
7 was to prove something took place beyond a
8 reasonable doubt, the existence or lack
9 thereof of a receipt might be relevant. But
10 in this case, you have to ask yourselves is it
11 more likely than not that Investigator Lawson
12 on the date in question walked in there in an
13 undercover capacity and purchased the little
14 bottle and walked out and took a photo of it
15 and completed a transmittal sheet with its
16 information or not?

17 And since there is no evidence
18 that has been put forward to the Board, no
19 affirmative evidence contradicting Mr. Tyrone
20 Lawson's testimony and since his credibility
21 has not been called into question, the
22 Government submits that it has, indeed, met

1 its burden that by a preponderance of the
2 evidence, the sale in question took place.
3 Thank you.

4 CHAIRPERSON MILLER: Thank you.
5 Okay. Ms. Dayhoff?

6 MS. DAYHOFF: I just hope that you
7 take all of this into consideration and
8 dismiss the case. And that's all I have to
9 say. Thank you.

10 CHAIRPERSON MILLER: Okay. I'm
11 going to close the record now. We have heard
12 all the testimony and all evidence that has
13 been put forward has been put into the record.

14 This is a legal question, if you
15 don't get it, just we will explain it to you
16 further.

17 But I'm going to ask if the
18 parties want to propose -- file proposed
19 findings of fact and conclusions of law or
20 waive their right to do so?

21 MR. RIVERO: The Government will
22 waive.

1 CHAIRPERSON MILLER: And do you
2 understand the question? Ms. Dayhoff, it
3 means almost like filing --

4 MR. RIVERO: Yes.

5 CHAIRPERSON MILLER: -- a brief.

6 MR. RIVERO: A brief indulgence.

7 CHAIRPERSON MILLER: Okay. You
8 can explain it to her.

9 MS. DAYHOFF: I waive.

10 CHAIRPERSON MILLER: Okay. Okay.
11 So that concludes this hearing. I'm just
12 going to be reading some instructions for the
13 Board and a motion for the Board to vote on to
14 go into a closed meeting to deliberate this
15 case and to bear with me.

16 Okay. As Chairperson of the
17 Alcoholic Beverage Control Board for the
18 District of Columbia and in accordance with
19 Section 405 of the Open Meetings Amendment Act
20 of 2010, I move that the ABC Board hold a
21 closed meeting for the purpose of seeking
22 legal advice from our counsel on Case No. 12-

1 CMP-00497, Sheffield Wine and Liquors, per
2 Section 405(b)(4) of the Open Meetings
3 Amendment Act of 2010, and deliberating upon
4 this case for the reasons cited in Section
5 405(b)(13) of the Open Meetings Amendment Act
6 of 2010.

7 Is there a second?

8 MEMBER BROOKS: Second.

9 CHAIRPERSON MILLER: Mr. Brooks
10 has seconded the motion. I'll now take a roll
11 call vote on the motion now that it has been
12 seconded.

13 Mr. Brooks?

14 MEMBER BROOKS: I agree.

15 CHAIRPERSON MILLER: Mr. Alberti?

16 MEMBER ALBERTI: I agree.

17 CHAIRPERSON MILLER: Ms. Miller
18 agrees.

19 Mr. Silverstein:

20 MEMBER SILVERSTEIN: I agree.

21 CHAIRPERSON MILLER: Mr. Jones?

22 MEMBER JONES: I agree.

1 CHAIRPERSON MILLER: It appears
2 the motion has passed by 5-0-0. I hereby give
3 notice that the ABC Board will conduct a
4 closed meeting in the ABC Board conference
5 room pursuant to the Open Meetings Amendment
6 Act of 2010 later today and we will issue an
7 order on this case within 90 days.

8 MS. DAYHOFF: Thank you.

9 CHAIRPERSON MILLER: Okay. Thank
10 you very much.

11 (Whereupon, the Show Cause Hearing
12 in the above-entitled matter was concluded at
13 2:54 p.m.)

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A	<p>assume 3:19</p> <p>assumed 8:7 25:15</p> <p>attorney 19:18</p> <p>August 3:9,13 9:17 12:11 14:15</p> <p>available 12:6 14:7 21:9</p> <p>Ave 1:7</p> <p>Avenue 2:6 11:6</p> <p>awarded 29:17</p> <p>aware 22:20</p> <hr/> <p style="text-align: center;">B</p> <p>back 10:18 16:20 17:6 18:17 27:16 28:2</p> <p>badge 17:20 18:8 18:15,18</p> <p>basically 4:15</p> <p>bear 33:15</p> <p>beginning 25:22</p> <p>believes 30:22</p> <p>better 19:1 26:6</p> <p>beverage 1:2,6,13 1:14 8:20 10:9,20 11:16 13:18 33:17</p> <p>beverages 10:5</p> <p>beyond 31:5,7</p> <p>bill 10:17,19</p> <p>Board 1:2,14 2:8 6:7 12:6 14:7 20:14 22:11 25:1 26:12 30:19 31:18 33:13,13,17,20 35:3,4</p> <p>bottle 10:7,15,20 11:12 12:10,21 14:13 16:16 17:7 22:2,2 31:14</p> <p>bottles 1:10 10:4</p> <p>bought 17:11 26:14</p> <p>brief 33:5,6</p> <p>briefly 27:5</p> <p>Brooks 1:20 27:2,5 27:7,13,17,20 28:1,4,8,11 34:8,9 34:13,14</p>	<p>burden 4:20 31:6 32:1</p> <p>buy 16:16</p> <hr/> <p style="text-align: center;">C</p> <p>cabinet 10:16 11:16</p> <p>calendar 2:4</p> <p>call 5:11 7:18 28:5 34:11</p> <p>called 8:5 21:17 25:14 31:21</p> <p>capacity 3:10 18:16 19:11 20:18 21:5 31:13</p> <p>case 1:9 2:3,4,11 3:15 5:2,6,7,22 6:3 10:4 24:6 25:21 30:20 31:3 31:10 32:8 33:15 33:22 34:4 35:7</p> <p>Cause 1:7 2:21 3:7 3:8 35:11</p> <p>certificate 29:17</p> <p>Chair 8:2 28:12</p> <p>Chairperson 1:15 1:18 2:3,12,17,20 3:4,18,22 4:5,10 4:13,19 5:4,9,15 5:21 6:5,19,21 7:2 7:5,8,11,14,17,21 8:9 13:1,5,9,16 15:2,5 16:3,6 19:16,20 20:3,6,8 20:11,13 21:2,22 22:3,6,10 23:5,9 23:11,14,17,20 24:2,5,8,13,18 25:3,8,18 26:11 26:17,22 27:3,6 28:13,18 29:5,8 29:12,16 30:5,8 30:11,18 32:4,10 33:1,5,7,10,16 34:9,15,17,21 35:1,9</p> <p>change 10:19</p>	<p>charge 3:20</p> <p>check 11:5,10 17:4 19:8 29:19</p> <p>checking 9:19</p> <p>chief 11:17</p> <p>citation 21:13,14 27:16 28:7</p> <p>cited 34:4</p> <p>close 32:11</p> <p>closed 33:14,21 35:4</p> <p>closing 6:2 24:20</p> <p>closings 30:15</p> <p>CMP-00497 34:1</p> <p>Code 6:15</p> <p>Columbia 1:1 2:10 9:9 33:18</p> <p>come 17:6 27:9</p> <p>comfortable 25:9</p> <p>common 17:15</p> <p>complete 15:12</p> <p>completed 11:10 11:14 14:12,18 15:1 31:15</p> <p>compliance 9:19 11:6 19:8 29:18</p> <p>compromised 22:22,22</p> <p>conclude 4:2 24:6</p> <p>concluded 35:12</p> <p>concludes 4:3 33:11</p> <p>conclusion 24:12</p> <p>conclusions 32:19</p> <p>conduct 9:6 35:3</p> <p>conducted 9:17</p> <p>conference 35:4</p> <p>Connecticut 1:7 2:6 11:6</p> <p>consideration 26:9 32:7</p> <p>container 6:13 9:20 11:7</p> <p>contesting 26:13</p> <p>continued 11:4</p> <p>contradicting 31:19</p>	<p>Control 1:2,13,14 33:17</p> <p>copies 12:5 14:6</p> <p>copy 12:4 13:2 14:5 14:17,22 29:14 30:6</p> <p>Corp 1:6</p> <p>corporation 17:1</p> <p>correct 7:12 12:13</p> <p>counsel 8:5 33:22</p> <p>counter 10:6</p> <p>credibility 31:20</p> <p>CROSS-EXAMI... 16:7</p> <p>cross-examine 5:13</p> <p>curious 20:15</p> <hr/> <p style="text-align: center;">D</p> <p>date 31:12</p> <p>day 15:13,15</p> <p>Dayhoff 2:15,15,19 3:21 4:7,9,9,12,18 5:3,8,14,20 6:4,20 7:1,4,6,9,16 13:4 13:8 15:4 16:5,8 16:12,15 17:2,5 17:10,13,16 18:4 18:7,11,22 19:4 19:14,19 20:2,5,7 20:10,12 23:7,10 23:13,16,19 24:1 24:9,11,17,22 25:7,13,20 26:15 26:21 27:7,12,15 27:19,21 28:3,6,9 28:16,22 29:4,11 30:7,9 32:5,6 33:2 33:9 35:8</p> <p>days 35:7</p> <p>DC 6:14</p> <p>decision 25:1,21 26:10</p> <p>defeat 31:1</p> <p>defeats 19:10</p> <p>deliberate 33:14</p> <p>deliberating 34:3</p> <p>demonstrate 6:15</p>
----------	---	---	--	---

direct 8:11 10:12 25:19	14:3,22 15:7,9 29:21 30:3	5:1,1 13:6 24:15 25:1,4,6,21 32:11 32:17 33:12	investigation 17:18	20:15,17 21:3
disagree 19:14	existence 31:8	Good 2:8,12 7:21	investigations 9:7	22:1,4,8,14,17
disclose 19:7 21:5	exited 11:1,3	8:1,12 16:8,10	investigator 3:9,12	23:2 25:9 26:13
dismiss 32:8	experience 22:19	30:11	6:17 8:1,4,15,19	27:15 28:6 31:11
District 1:1 2:9 9:8 33:18	22:20	Government 3:5	8:20 9:2,5,6,13,16	Lawson's 26:5
document 11:20	explain 32:15 33:8	3:17 4:20 6:10	10:2,10,13,22	31:20
12:1 13:6,13,21	explained 18:20	8:6 12:2,19 13:14	11:4 12:8,14,18	left 17:22
14:2,8 15:8 30:1	exposing 19:11	14:3,20 15:9 19:9	13:19 14:10,19	legal 32:14 33:22
documents 5:17	<hr/> F <hr/>	19:12,13 31:2,22	15:14,18,21 16:10	License 1:8 2:6
doing 5:5 17:18	fact 22:22 32:19	32:21	16:14,17 17:3,9	licensed 9:7
DONALD 1:20	fairly 30:20	Government's	17:12,14 18:2,5,9	licensee 12:5 14:6
doubt 31:5,8	fall 25:22	11:21 13:11,22	18:13 19:3,5,12	25:14 30:3,22
drinking 29:20	familiar 9:11,15	14:22 15:7	19:15 20:17 21:3	Licensee's 29:21
duly 8:6 25:15	feel 4:17	go-cup 9:20 11:7	21:12 22:1,4,8,15	Liquors 1:6 2:5 6:9
duties 9:5	Fernando 1:23 2:9	granted 4:1	22:17 23:2 27:10	9:12 11:14 12:11
D.C 1:15	fewer 1:10 6:11	<hr/> H <hr/>	31:11	14:14 29:18 34:1
<hr/> E <hr/>	fight 26:2	half 9:3	issue 35:6	listen 7:7
employees 27:9	file 29:1 32:18	hand 25:11,11	<hr/> J <hr/>	little 31:13
28:2	filing 33:3	hands 25:22	January 1:12	located 2:5
enforcement 11:17	findings 32:19	happened 11:3	job 26:5 31:3	locked 11:16
23:1 29:19	fine 7:8 26:1 30:10	26:20	Jones 1:19 34:21	locker 11:18
entered 10:2,14	finishes 5:22	heard 32:11	34:22	long 8:22
environment 20:21	first 3:11 4:20 5:18	hearing 1:8,14 2:21	July 29:19	look 12:7 14:8
establishment 6:11	7:18,19 8:6,13	4:6 33:11 35:11	<hr/> K <hr/>	looked 29:15
9:11,15,18 10:1,3	25:15 30:16	hearings 4:11	kind 20:21 21:19	<hr/> M <hr/>
11:1,3 18:19 21:7	follows 8:8 25:17	HERMAN 1:19	know 4:15 16:19	Madam 8:2 28:12
establishments 9:8	follow-up 17:4	hey 17:21	21:10 25:1,4,20	males 10:14,15
9:19 11:5,11	form 14:17 15:13	hold 23:11 33:20	26:15,16,19	16:22 17:6
evidence 5:17	forward 4:6 31:18	hope 26:8 32:6	known 9:11	marked 11:21 12:2
11:14,18 12:20	32:13	hours 15:16	<hr/> L <hr/>	13:13,22 14:3
13:7,15 14:11,21	free 4:17	<hr/> I <hr/>	lack 31:8	15:8 30:2
15:6,10 26:4	Friday 3:8	identification	larger 21:21	matter 1:5 3:3,7,8
28:21 29:10,22	further 16:1 23:4	11:22 12:3 14:1,4	law 6:17 17:21	4:4 6:8 15:15
30:4,15 31:1,17	32:16	30:2	18:12 23:1 32:19	35:12
31:19 32:2,12	<hr/> G <hr/>	identify 18:15,17	Lawson 6:18 7:12	matters 3:1 4:2
exact 15:22	gentlemen 18:18	19:7	7:20,22 8:1,4,15	ma'am 16:14
EXAMINATION	give 4:22 28:7 35:2	indulgence 33:6	8:16,17,19 9:2,6	mean 26:5
8:11 22:13 25:19	Glenlivet 10:7,16	inform 16:20	9:13,16 10:2,10	means 33:3
examined 8:7	11:12 12:10 13:11	information 31:16	10:13,22 11:4	meeting 1:3 33:14
25:16	14:13 16:16 17:11	initially 18:14	12:8,14,18 13:19	33:21 35:4
Excuse 17:5	19:2 28:15	inspections 9:7	14:9,10,19 15:14	Meetings 33:19
excused 24:4	go 4:16 11:19 13:20	instances 22:21	15:18,21 16:9,10	34:2,5 35:5
Exhibit 11:21 12:2	17:18 21:6 30:16	instructions 33:12	16:14,17 17:3,9	Member 1:19,19
13:10,11,14,22	33:14	introduce 2:13	17:12,14 18:2,5,9	1:20,21 27:2,5,7
	going 4:6,14,15,21		18:13 19:3,5,15	27:13,17,20 28:1
				28:4,8,11 29:6

34:8,14,16,20,22 members 2:9 6:8 14:7 16:22 met 1:14 31:22 middle 10:5 MIKE 1:21 Miller 1:15,18 2:3 2:12,17,20 3:4,18 3:22 4:5,10,13,19 5:4,9,15,21 6:5,19 6:21 7:2,5,8,11,14 7:17,21 8:9 13:1,5 13:9,16 15:2,5 16:3,6 19:16,20 20:3,6,8,11,13 21:2,22 22:3,6,10 23:5,9,11,14,17 23:20 24:2,5,8,13 24:18 25:3,8,18 26:11,17,22 27:3 27:6 28:13,18 29:5,8,12,16 30:5 30:8,11,18 32:4 32:10 33:1,5,7,10 34:9,15,17,17,21 35:1,9 milliliter 22:2 mind 20:22 miniature 1:10 6:13 10:4 26:14 27:11 miniatures 6:12 9:21 11:7 mistake 23:8 morning 28:10 motion 3:6,14,16 4:1 33:13 34:10 34:11 35:2 move 12:20 14:21 33:20	NICK 1:19 normally 21:4 notice 3:6,7 35:3 notified 21:17 NW 1:7 N.W 1:14 2:6	19:6 opinion 22:9 opportunity 5:19 19:21 20:1 option 5:5 order 4:14 35:7 original 14:11 30:9 owner 2:18	31:4 32:1 present 1:17,22 5:7 5:12 17:20 18:8 18:15 presented 21:15 31:2 presiding 1:15 pretty 15:19 principle 26:2 probably 15:16 procedure 4:14 proceedings 19:18 program 29:20 proof 4:20 propose 32:18 proposed 32:18 prove 5:2 31:4,7 purchase 3:10,13 10:6,17 15:12 16:20 18:14 21:6 21:21 27:9,11 purchased 11:13 12:10 14:14 19:2 31:13 purpose 19:10 33:21 pursuant 35:5 put 5:17 10:22 25:4 28:21 29:9 30:14 31:18 32:13,13 P-R-O-C-E-E-D-... 2:1 p.m 2:2 35:13	reading 33:12 reads 3:8 really 24:22 26:16 reasonable 21:21 22:5 31:5,8 reasons 34:4 recall 16:18 recalled 21:18 receipt 17:11,15 20:16,20 21:1,19 22:21 26:16 31:1 31:9 received 13:14 15:9 30:4 record 2:14 8:14 32:11,13 redirect 22:11,13 Regulation 8:21 relevant 31:9 request 10:12 required 5:10 requirement 17:17 17:19 requirements 18:12 respect 26:5 Retailer 1:8 returned 11:11 right 2:21 3:4 13:21 15:20 22:3 23:21 24:3 25:11 26:9,21 27:1 28:11,19 30:12,12 30:13 32:20 Rivero 1:23 2:8,9 2:22 3:2,5 4:3,21 5:11 6:6,7 7:13,20 8:12,17,22 9:4,10 9:14,22 10:8,11 10:21 11:2,19 12:4,12,15,19 13:17,20 14:5,16 14:20 15:11,17,20 16:1 22:14,18 23:3 24:7 29:3,14 30:10,16,17,19 32:21 33:4,6
<hr/> N <hr/> Nam 2:15 25:13 name 4:8 8:13 16:18,19 need 25:10 new 19:18	<hr/> O <hr/> OAG 1:23 oath 25:5 object 3:19 5:19 objection 3:21 6:20 13:3,6 15:3,4 29:2 29:3,13,15 objective 23:1 occupation 8:18 occurred 18:21 21:11 oh 21:18 okay 2:12,20 3:18 3:22 4:1,5,13,18 4:19 5:3,8,14,20 6:4,5,19,21 7:2,11 7:14,17,17 8:10 9:10,22 11:2,19 12:12,19 13:9,10 13:16,17 14:20 15:5,5,17 16:1,3,6 17:2,10 19:15,16 20:2,5,6,13 21:2 21:22,22 22:6,6 22:10,12 23:5,13 23:16,19,21 24:2 24:8,17 25:3,7,8 25:18 26:12,17,22 27:17,20 28:1,11 28:12,19,20 29:4 29:9,16,20 30:11 30:16,18 32:5,10 33:7,10,10,16 35:9 Open 33:19 34:2,5 35:5 opening 4:22 6:22 24:9,11,14 operating 19:10 operation 9:18	<hr/> P <hr/> packages 9:21 11:8 Parker 21:12 part 19:21 participated 4:11 particularly 6:13 parties 32:18 passed 35:2 pay 26:1 people's 20:22 percent 29:18 permitted 6:11 person 17:7 21:18 phone 28:5 photo 13:10 31:14 photocopy 12:9,13 12:16,21 14:11 photograph 12:16 12:21 photographed 11:12 pick 28:4 picture 12:9 13:2 place 6:16 30:21 31:7 32:2 plastic 10:4 please 2:14 8:13 18:6 27:6 plexiglass 10:4 pocket 11:1 position 9:1 26:19 26:19 possible 21:10 practice 17:15 19:6 20:19 preliminary 3:1,3 4:2,4 preponderance	<hr/> Q <hr/> question 12:22 18:3,6 23:10 27:2 27:4 31:12,21 32:2,14 33:2 questions 4:16 5:12 7:10 16:2,4 19:22 20:9,10,14 22:11 23:4,22 26:12,12 28:20 quick 13:21	<hr/> R <hr/> raise 25:11,11

roll 34:10	state 8:13	27:8	wanted 21:9 24:15	2:54 35:13
room 1:14 35:5	statement 4:22	today 6:9 26:7 35:6	26:18	2000 1:14
rung 10:16	6:22 23:12 24:9	told 10:18 16:21,22	wants 3:5	20009 1:15
Ruthanne 1:15,18	statements 20:1	27:13	Washington 1:15	2010 33:20 34:3,6
<hr/> S <hr/>	23:15	top 21:4	went 16:20 18:16	35:6
sale 3:15 6:11,16	stay 25:10	transaction 30:21	21:12	2012 3:13 9:17
32:2	storage 14:13	transmittal 11:15	Wine 1:6 2:5 6:9	12:11 29:19
sales 9:20,20	store 26:14	14:12 15:1,6	9:12 11:13 12:11	2013 1:12
saw 10:3 17:6	stored 11:15	31:15	14:14 29:18 34:1	22 3:13
Scotch 10:7	Street 1:14	triggers 20:21	witness 7:7,12,15	25-751.2001 6:15
second 3:11 34:7,8	strike 3:14	turn 5:7 6:6 11:17	7:18 8:5,7 12:22	<hr/> 3 <hr/>
seconded 34:10,12	striking 3:19	two 3:16 10:14	15:1 24:4 25:14	30 1:12
Section 33:19 34:2	submits 31:22	15:16 16:21 17:6	25:16	<hr/> 4 <hr/>
34:4	Suite 1:14	18:18	witnesses 5:11,16	400S 1:15
securing 11:18	sum 6:2	Tyrone 6:18 8:4,15	work 27:21	405 33:19
seeking 33:21	sure 15:19 25:5	31:19	wouldn't 20:16	405(b)(13) 34:5
sees 30:19	26:18	t/a 1:6	21:4	405(b)(4) 34:2
sentence 3:11,12,15	suspicion 20:22	<hr/> U <hr/>	wrote 21:13,14	<hr/> 5 <hr/>
shared 12:5	suspicious 21:20	underage 29:19	<hr/> Y <hr/>	5-0-0 35:2
sheet 11:15 14:12	sworn 8:6 25:15	undercover 3:10	years 9:3 22:16,19	50 22:2
15:1,6 31:15	<hr/> T <hr/>	9:18 17:17 18:16	<hr/> P <hr/>	5025 1:7 2:5
Sheffield 1:6 2:5,16	take 26:8 29:9 32:7	19:6,11 20:18	p 1:4,11	<hr/> 6 <hr/>
6:9 9:12 11:13	34:10	21:5 31:13	<hr/> \$ <hr/>	60563 1:8 2:6
12:11 14:14 16:13	talked 28:2	understand 33:2	\$10 10:17,19	<hr/> 9 <hr/>
18:1 29:17 34:1	tell 4:14 27:10 28:5	understanding	\$7.70 10:18	90 35:7
show 1:6 2:21 3:6,7	testified 8:8 22:15	30:21	<hr/> # <hr/>	
5:1,17 6:10 11:20	25:16	understood 26:18	#12-CMP-00497	
13:21 29:2 35:11	testify 23:15	use 19:21,22	1:9	
showed 18:17	testifying 20:4 25:6	usually 20:18,20	<hr/> 1 <hr/>	
shown 6:3 14:6	testimony 5:12	<hr/> V <hr/>	1 11:21 12:2 13:10	
Silverstein 1:21	6:10,17 24:19	violate 17:19 18:12	13:12,14 29:21	
34:19,20	31:20 32:12	violated 17:21	30:3	
simple 30:20	Thank 6:7 8:9 13:9	violation 6:14,16	100 29:18	
single 10:6	22:7 23:3 24:3	16:21 18:21 21:11	12 33:22	
six 1:10 6:12 9:21	26:10 28:12 30:17	vote 33:13 34:11	12-CMP-00497 2:4	
11:8,9	32:3,4,9 35:8,9	<hr/> W <hr/>	14th 1:14	
size 9:20 11:7	thereof 31:9	wait 5:6 7:1,4,6	17 3:9 9:17 12:11	
small 22:2	thing 4:21 5:5 6:1	waive 32:20,22	<hr/> 2 <hr/>	
sold 1:10 6:12,14	29:1	33:9	2 13:22 14:3,22	
11:8 17:7 28:14	think 18:22 25:4	walked 31:12,14	15:7,9	
solid 26:4	31:6	Walker 29:6,7,8	2:29 2:2	
soon 15:12 21:10	thought 17:16	want 4:7 5:22	2:30 16:13	
specifically 21:20	three 9:3 22:16,18	13:20 15:11 20:20		
Spirits 1:10	time 10:14 12:20	28:20,22 29:9		
stand 8:7 23:21	14:21 15:22 16:19	32:18		
25:16	19:1 21:8,13 23:1			