

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :
 :
Caribbean Vibe, Inc. :
t/a Club Timehri : Status
2439 18th Street, NW : Hearing
Retailer CT - ANC-1C :
License No. 77730 :
Case #11-251-00103 :
 :
(Respondent's Request for :
Reconsideration of Board :
Order No. 2012-379) :
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March 13, 2013

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C.

20009, Chairperson Ruthanne Miller, presiding.

PRESENT:
RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member

DONALD BROOKS, Member
HERMAN JONES, Member
MIKE SILVERSTEIN, Member

ALSO PRESENT:
MICHAEL STERN, OAG

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

(10:33 a.m.)

CHAIRPERSON MILLER: I think that's all the ones we passed, right?

MR. STERN: Club Timehri? It's next.

CHAIRPERSON MILLER: Right. That's our next hearing. Okay. Just on the statuses, I know that --

MR. STERN: Okay.

CHAIRPERSON MILLER: -- we didn't exactly pass Georgia Line. I set it for hearing, but is anybody here for that? Okay. All right. Then that I believe concludes our statuses. Oh, this is Club Timehri. I'm sorry. Right, we'll get to that.

Okay. I'm going to call Club Timehri, Case No. 11-251-00103, Club Timehri located at 2439 18th Street, N.W., License No. 77730 in ANC-1C.

When you are ready, would you introduce yourselves for the record?

1 MR. STERN: Michael Stern
2 representing the District of Columbia.

3 MR. WELLS: Christopher Wells on
4 behalf of Club Timehri.

5 CHAIRPERSON MILLER: Okay. Did
6 you sign-in?

7 MR. WELLS: Yes, ma'am.

8 CHAIRPERSON MILLER: So my
9 understanding is this isn't a normal Status
10 Hearing. This is a request for
11 reconsideration by Mr. Wells?

12 MR. WELLS: Yes, ma'am.

13 CHAIRPERSON MILLER: Okay. So
14 when you are ready, if you want to make that
15 request?

16 MR. WELLS: There was some in the
17 dates of Status Hearing, I had -- there was a
18 chain -- because it was actually moved and
19 there was a chain of emails that surrounded
20 the date, as far as rescheduling. And the
21 last email was kind of open-ended where I said
22 I was available, but I didn't get a formal

1 response to that date.

2 So there was a mix-up in the date.
3 I mean, the Board knows I always make it to
4 hearings. And this hearing, I just had no
5 knowledge of. And it was basically, I guess,
6 the penalty phase of the issue that we had in
7 March. And I just wanted to talk -- address
8 the Board as far as some of the penalties that
9 were assigned --

10 CHAIRPERSON MILLER: Okay.

11 MR. WELLS: -- from the findings
12 of fact and conclusions of law, which I
13 received that was a result of after I was
14 absent. So I just had wanted to request
15 reconsideration of some of the penalties. And
16 Attorney Stern and I have had conversation.

17 CHAIRPERSON MILLER: Okay.

18 MR. WELLS: Should I mention what
19 the --

20 CHAIRPERSON MILLER: Yes.

21 MR. WELLS: Okay. I was asking
22 the Board to consider the --

1 CHAIRPERSON MILLER: Do we have a
2 motion? Do we have something in writing?
3 Because I have it -- we haven't seen any
4 written request yet.

5 MR. WELLS: This is the --

6 CHAIRPERSON MILLER: Oh, here it
7 is, a legal letter. Okay.

8 MR. WELLS: Yes. So what I was
9 asking the Board was to consider -- the
10 penalty was \$2,000 for the first charge,
11 \$2,000 for the second charge and 20 days. And
12 what I was asking was the Board consider that
13 I already served 20 days, so to speak, from
14 the date of the incident on March 10th to the
15 30th when -- because we had some security
16 measures that we mutually agreed upon put in
17 place, you know, cameras, training for all my
18 security staff and myself and going over
19 security procedures, a lot of things like
20 that, which took 20 days, in essence.

21 So I was asking the Board to
22 consider applying the 20 days penalty to the

1 20 days served, already served since.

2 CHAIRPERSON MILLER: Okay. Okay.

3 MR. WELLS: So that was -- so my
4 formal request and reason for being here is to
5 request that my 20 days be applied to time
6 already served, since that -- since, in
7 essence, I mean, that's I guess another
8 punitive damage which I have already --

9 CHAIRPERSON MILLER: Okay.

10 MR. WELLS: -- had to endure.

11 CHAIRPERSON MILLER: Yes.

12 MR. WELLS: And it would be, in
13 essence, 40 days if I was to do another 20
14 days --

15 CHAIRPERSON MILLER: Okay.

16 MR. WELLS: -- that we shut down.

17 CHAIRPERSON MILLER: Do you know
18 the date of the order? The Board's order that
19 you are asking reconsideration on? We can
20 look it up, I just wanted to know if you knew
21 it.

22 MR. WELLS: Sorry, I don't have

1 that.

2 CHAIRPERSON MILLER: Okay. We
3 will look it up. Okay. Mr. Stern, do you
4 have a response?

5 MR. STERN: The Government
6 concurred with this request. The reasons for
7 that was that this respondent was unusually
8 affirmative in coming forward and making
9 changes and spending quite a bit of money to
10 make quite a bit of changes as it turns out
11 and that they were closed for a substantial
12 period of time.

13 Actually, I sort of remember it
14 being 21 days, but they were closed for a
15 substantial period of time and they agreed to
16 come in and pay. They proposed that they come
17 in and pay the fine that the Board had ordered
18 in full. Their only request was that the
19 change be made to reflect the time that they
20 had already been closed.

21 And after discussing with the
22 Agency, we felt that was a fair request. And

1 so we did not object to their motion.

2 CHAIRPERSON MILLER: Okay. And
3 did you file anything?

4 MR. STERN: We did not file
5 anything. There was no -- I did not see a
6 formal motion. I know there was an email sent
7 requesting --

8 CHAIRPERSON MILLER: Okay.

9 MR. STERN: -- the change. Right?
10 I personally didn't see a formal motion. I
11 would have filed something if I had seen a
12 formal motion.

13 CHAIRPERSON MILLER: Okay.

14 MR. STERN: Though I did -- I
15 think I sent an email back saying we didn't
16 oppose that.

17 CHAIRPERSON MILLER: Okay. I just
18 wanted to make sure that, you know, we see
19 everything --

20 MR. STERN: Yes.

21 CHAIRPERSON MILLER: -- that's out
22 there. Okay.

1 MEMBER ALBERTI: Can I just make
2 sure I understand? So we have an oral motion
3 before us, because we don't have a written
4 motion, because the letter from October 30th,
5 if I read this, does not speak to the fine at
6 all.

7 MR. STERN: Right.

8 MEMBER ALBERTI: It just speaks to
9 the fact that you, Mr. Wells, were not present
10 at the hearing. And it doesn't speak to the
11 reconsideration of the penalty.

12 MR. STERN: Right, right.

13 MEMBER ALBERTI: So just to be
14 clear, we have an oral motion before us. Is
15 that correct?

16 MR. STERN: Yes, I would --

17 MEMBER ALBERTI: Mr. Wells, do you
18 agree?

19 MR. WELLS: Yes. I think --

20 MEMBER ALBERTI: No, just yes or
21 no. Do you agree with that?

22 MR. WELLS: Yes.

1 MEMBER ALBERTI: Okay. Thank you.
2 I just wanted to make sure we have that for
3 the record.

4 CHAIRPERSON MILLER: I haven't
5 read the letter yet though. Is that --

6 MEMBER ALBERTI: Well, we can take
7 a moment. That --

8 CHAIRPERSON MILLER: Could that be
9 interpreted as a motion by a layperson? I
10 mean, I --

11 MEMBER ALBERTI: Well, the motion
12 doesn't -- the letter does not address the
13 penalty. It only addresses the fact that he
14 wasn't present for the hearing.

15 CHAIRPERSON MILLER: Oh.

16 MEMBER ALBERTI: It doesn't speak
17 to the penalty at all.

18 MR. STERN: It was originally
19 requested --

20 CHAIRPERSON MILLER: Oh, thank
21 you.

22 MEMBER ALBERTI: So --

1 CHAIRPERSON MILLER: Okay.

2 MEMBER ALBERTI: -- that's my
3 point.

4 MR. STERN: I believe there was
5 originally a request to rehear the case.

6 MR. WELLS: Yes.

7 MR. STERN: Which we opposed.

8 MEMBER ALBERTI: Right.

9 MR. STERN: Then there was a --
10 there were email communications that went back
11 and forth regarding alternative methods of
12 resolving. And if it were -- if I -- if you--
13 they were represented by an attorney, I'm sure
14 they would have filed a written motion.

15 CHAIRPERSON MILLER: Right.

16 MR. STERN: But they weren't, so
17 they asked for it basically --

18 MEMBER ALBERTI: Okay.

19 MR. STERN: -- orally and by
20 email.

21 CHAIRPERSON MILLER: And who are
22 the email -- who are the email correspondences

1 between?

2 MR. STERN: They are not part of
3 the record.

4 CHAIRPERSON MILLER: No, they are
5 not.

6 MR. STERN: I did receive. We did
7 discuss them, so --

8 CHAIRPERSON MILLER: You all had
9 email conversations. The emails that you are
10 referring to are between the two of you?

11 MR. STERN: And --

12 CHAIRPERSON MILLER: And counsel
13 also?

14 MR. STERN: And the Board's
15 counsel.

16 CHAIRPERSON MILLER: And the
17 Board's counsel also, okay.

18 MR. WELLS: Yes, I'm sorry.

19 CHAIRPERSON MILLER: Okay.

20 MR. WELLS: There was a lot of
21 emails and I think we somehow got lost as far
22 as -- because the initial request as Attorney

1 Stern said was for another hearing, which was
2 denied.

3 So then it kind of -- we got into
4 talking about additional compromise. So I'm
5 sorry if a formal motion was not made. It
6 should have been, but a lot of those emails
7 had that conversation. But a formal motion
8 was never made on my behalf, so --

9 CHAIRPERSON MILLER: So this is a
10 Motion for Reconsideration of a part of our
11 order. I don't know the date of that order.
12 It sounds like it's a long time ago, but I
13 don't know.

14 MEMBER ALBERTI: It's about June
15 30, 2010.

16 MS. GEPHARDT: October 24th,
17 October 2012 and this letter was on your
18 agenda and it was treated like a Motion for a
19 Rehearing.

20 CHAIRPERSON MILLER: Okay.

21 MEMBER ALBERTI: Which was denied.
22 I need to ask questions before we talk.

1 CHAIRPERSON MILLER: Okay. You
2 have other questions?

3 MEMBER ALBERTI: Well, I don't
4 know if Mr. Jones has a question?

5 MEMBER JONES: Not right now.

6 MEMBER ALBERTI: Okay. So, Mr.
7 Stern, you have no objections to the
8 reconsideration?

9 MR. STERN: That's correct.

10 MEMBER ALBERTI: And the request
11 that the suspension days --

12 MR. STERN: He converted to
13 times --

14 MEMBER ALBERTI: He converted to
15 time served for the penalty. All right. Mr.
16 Stern, what was your recommendation at the
17 hearing? Do you remember?

18 MR. STERN: I truthfully don't
19 recall, but my recommendation would have been
20 influenced by the fact that they weren't there
21 and I believe that is an aggravating factor.
22 And I usually will ask for additional more

1 severe penalties when a respondent ignores the
2 authority of the Board.

3 In reviewing the emails, I believe
4 that -- them when they say they were confused.
5 And their non-appearance was atypical to how
6 they reacted when this case was first called.

7 MEMBER ALBERTI: All right. The
8 issue that I'm having is confirmation of
9 whether they were -- Mr. Wells was notified.
10 Were you notified of the July 25th hearing?

11 MR. STERN: What happened was if I
12 recall correctly, I can correct -- what
13 happened was there was a request to change the
14 date for the Status Hearing. At that time,
15 the date never got changed though he thought
16 it was changed.

17 So he didn't appear for the Status
18 Hearing.

19 MEMBER ALBERTI: Okay.

20 MR. STERN: When he didn't appear
21 for the Status Hearing, the date was
22 automatically set for the Show Cause Hearing.

1 Not being here for the Status Hearing, he --
2 my understanding is he didn't understand that
3 the original date for the Show Cause would
4 still be held. He was waiting to see whether
5 a new status would be held.

6 When he never heard word of the
7 new status, he didn't appear for the Show
8 Cause.

9 MEMBER ALBERTI: Were you notified
10 of the Status Hearing? Of the Show Cause
11 Hearing?

12 MR. STERN: Well, yes, when the
13 official -- original notice was sent, I had
14 notice of both days.

15 MEMBER ALBERTI: Okay. Thank you.
16 I have no question, no further questions.

17 CHAIRPERSON MILLER: Mr. Jones?

18 MEMBER JONES: Thank you, Madam
19 Chair. So I just want to understand the basis
20 for your Motion for Reconsideration.

21 So, first of all, I just want to
22 make sure you are offering a Motion for

1 Reconsideration, that's why you are here
2 today. The Motion for Reconsideration of the
3 penalty?

4 MR. WELLS: For the penalty, yes.

5 MEMBER JONES: Okay. So I want to
6 understand the basis for that, the factual
7 basis for why you feel as though it is
8 appropriate for us to entertain that motion.
9 Specifically, I want to understand how it is
10 that you came to not be present for the Show
11 Cause Hearing.

12 MR. WELLS: My honest answer is I
13 was totally confused with the date. I did --
14 from the time this incident occurred, I worked
15 with everyone on this Board to make sure that
16 everything was done that we needed to do to
17 make sure we were a safer environment and we
18 did that.

19 MEMBER JONES: Not to cut you off,
20 but time is limited. I don't want --

21 MR. WELLS: Yes.

22 MEMBER JONES: -- to get into all

1 the esoteric stuff.

2 MR. WELLS: Okay. So is it --

3 MEMBER JONES: Can you speak to
4 the fact of the dates or why you missed that
5 date?

6 MR. WELLS: Right. So there was
7 an email, a chain of emails and I was confused
8 as to the date we were actually talking about.
9 I wouldn't have missed that date, because we
10 had done so much to make sure that we were
11 compliant with what the Board ordered and we
12 went above and beyond that.

13 MEMBER JONES: So did you ever
14 have a notice of --

15 MR. WELLS: No, I did not --

16 MEMBER JONES: No, no, hold on.
17 Did you ever receive notice of the Show Cause
18 Hearing date?

19 MR. WELLS: Yes.

20 MEMBER JONES: You did?

21 MR. WELLS: I received notice of
22 the Show Cause Hearing date, but I never

1 received a date of the punitive hearing. The
2 punitive hearing when they would actually
3 determine the monetary fine, etcetera.

4 MEMBER JONES: So that's the Show
5 Cause Hearing date, they are one in the same
6 if I understand what you are saying, correct?

7 MR. WELLS: Right. The Show
8 Cause --

9 MEMBER JONES: There is a Status
10 Hearing date and there is a Show Cause Hearing
11 date. There are primarily two dates, unless
12 I'm just way off base here.

13 MR. WELLS: Okay. Well, let me --

14 MEMBER JONES: So what other date
15 are you referring to?

16 MR. WELLS: Let me clarify my
17 understanding. There was a Show Cause date.
18 My stepfather is dying of cancer in New York
19 and I had --

20 MEMBER JONES: So when you say
21 Show Cause date, are you saying --

22 MR. WELLS: So I met --

1 MEMBER JONES: -- Show Cause

2 (Status) or Show Cause --

3 MR. WELLS: Show Cause (Status).

4 MEMBER JONES: Okay.

5 MR. WELLS: I'm sorry. Show Cause

6 (Status). And I said that I couldn't make

7 that date. I went to New York to attend to

8 family issues. And the later date, I never

9 received.

10 MEMBER JONES: So you never

11 received notice of the Show Cause Hearing

12 date? Not the Status, but the Show Cause

13 Hearing?

14 MR. WELLS: Correct.

15 MEMBER JONES: Did you ever

16 receive any notice related to this matter?

17 MR. WELLS: Yes, I believe I did.

18 MEMBER JONES: Okay. On that

19 notice, where there two dates, Show Cause

20 (Status) and Show Cause date?

21 MR. WELLS: Honestly, I don't

22 remember.

1 MEMBER JONES: You don't remember.

2 So do we have that in our file? Okay.

3 MR. STERN: I can -- both dates
4 were listed.

5 MEMBER JONES: Both dates are
6 there, right?

7 MR. STERN: Yes.

8 MEMBER JONES: Okay.

9 MR. STERN: As I say, I think that
10 he probably looked at -- I mean, I don't know.
11 His recollection, he will tell you, but he
12 probably looked at the first date, like most
13 people do when they come in here, and
14 completely ignore the second date.

15 But what happened was he had asked
16 for a new Status Hearing and it was never set.

17 MEMBER JONES: Do you have any
18 knowledge of the fact that he was given a
19 postponement? That is request for
20 postponement was --

21 MR. STERN: It was actually
22 denied, because it was a postponement for the

1 Status Hearing.

2 MEMBER JONES: Correct.

3 MR. STERN: And the Board doesn't
4 generally postpone Status Hearings.

5 MEMBER JONES: Okay.

6 MR. STERN: So he was -- we were
7 talking about a new date, because he said he
8 had to go to New York, but it was never
9 actually set for the new date.

10 MEMBER JONES: So the only --

11 MR. STERN: He went anyway and he
12 thought he was --

13 MEMBER JONES: Yes.

14 MR. STERN: -- going to get a new
15 notice. I mean, that's my understanding. He
16 thought he was going to get notice of a new
17 date, because we would still -- we had been
18 talking about potentially a new date and that
19 notice never came. And he never went back,
20 apparently, to the original notice that had
21 the Show Cause date on it.

22 And I truthfully will tell you, I

1 find most of these respondents who come in
2 here don't look at the second date until after
3 they have been in here. Just today, two
4 people asked me when is that second date or
5 can they have it in writing, when they clearly
6 already had it in writing from the original
7 notice. But that's just my reflection.

8 MEMBER JONES: Okay. Go ahead.

9 CHAIRPERSON MILLER: Mr. Wells, I
10 just want to get a couple of things clear.
11 When you went to New York because your father
12 was dying, was that around the date of the
13 Status Hearing or the Show Cause Hearing that
14 you missed?

15 MR. WELLS: For Status.

16 MR. STERN: Week of the Status
17 Hearing.

18 CHAIRPERSON MILLER: The Status
19 Hearing, okay.

20 MR. WELLS: And I remember calling
21 and they said it would be rescheduled. It's
22 going to go to a hearing anyway.

1 CHAIRPERSON MILLER: Right. Okay.
2 One other question have. This seems a little
3 old and I'm wondering why are we hearing it
4 now? I mean, I'm looking at a little
5 correspondence in October. I mean, that's why
6 I was asking the date of the order. Just is
7 this old or is this not old?

8 MR. STERN: This conversation
9 happened quite a while ago. I don't know why
10 it took until --

11 CHAIRPERSON MILLER: Oh, it's our
12 scheduling --

13 MR. STERN: -- March to --

14 CHAIRPERSON MILLER: -- to put it
15 on the calendar?

16 MR. STERN: -- put it on the
17 calendar.

18 CHAIRPERSON MILLER: Okay.

19 MR. STERN: But the conversation
20 happened when the letter first came and was
21 sent.

22 MR. WELLS: And when that letter

1 was just presented to me to sign, that's a
2 very preliminary letter. I pointed out, I
3 didn't even think we were talking about this,
4 because that letter was way back. We have had
5 many conversations between myself and Ms.
6 Jenkins.

7 CHAIRPERSON MILLER: Okay.

8 MR. WELLS: Many emails going
9 forward. And I --

10 CHAIRPERSON MILLER: Okay.

11 MR. WELLS: -- honestly thought
12 that -- and I'm completely off base here,
13 obviously, but I thought that since I talked
14 to Mr. Stern and we went -- he understood my
15 request, I didn't realize that I didn't need
16 to formally present that request to the Board.

17 CHAIRPERSON MILLER: Okay.

18 MR. WELLS: So but we have had a
19 lot of conversations in reference to that,
20 that's my fault again.

21 CHAIRPERSON MILLER: Okay. So but
22 just to finish this, Mr. Stern, so would you

1 confirm that Mr. Wells raised this soon after
2 the order came out? I don't know how soon or
3 anything.

4 MR. STERN: It was a while after
5 the order came out.

6 CHAIRPERSON MILLER: Okay.

7 MR. STERN: And I don't know what
8 that delay was.

9 CHAIRPERSON MILLER: Okay.

10 MR. STERN: But our discussions
11 happened right around the time the letter was
12 sent.

13 CHAIRPERSON MILLER: The October
14 30th letter?

15 MR. STERN: Yes.

16 CHAIRPERSON MILLER: There had
17 already been a penalty assessed, at that
18 point?

19 MR. STERN: Yes.

20 CHAIRPERSON MILLER: Okay.

21 MR. STERN: Questions regarding
22 the penalty and the Government not opposing a

1 change.

2 CHAIRPERSON MILLER: Okay. So he
3 contacted --

4 MR. STERN: It happened right
5 around that --

6 CHAIRPERSON MILLER: -- you?

7 MR. STERN: -- October date. I
8 don't know what took -- why he -- the letter
9 didn't get there until October.

10 MR. WELLS: My response was
11 immediately after Ms. Delgado, I believe, said
12 the findings of fact, conclusion of law,
13 because I didn't know the hearing took place.

14 CHAIRPERSON MILLER: Right.

15 MR. WELLS: So my response to Ms.
16 -- I contacted Ms. Jenkins immediately after.

17 CHAIRPERSON MILLER: Okay.

18 MR. WELLS: And I was like okay, I
19 just received this in the mail. I believe it
20 was a Thursday afternoon and I contacted her
21 Friday morning.

22 CHAIRPERSON MILLER: All right.

1 MEMBER ALBERTI: The order was
2 dated the 24th of October and your letter was
3 dated October 30th. Just so we are all clear
4 about that.

5 CHAIRPERSON MILLER: Thank you.
6 Okay.

7 MEMBER ALBERTI: Okay.

8 CHAIRPERSON MILLER: And did you
9 contact Ms. Jenkins by email, phone, both,
10 what?

11 MR. WELLS: Both, by email.

12 CHAIRPERSON MILLER: Both. Okay.
13 Okay. All right. Just so I have an
14 understanding. Mr. Alberti?

15 MEMBER ALBERTI: Yes. Mr. Stern?

16 MR. STERN: Yes?

17 MEMBER ALBERTI: I asked you a
18 question earlier and I don't think I really
19 got an answer.

20 MR. STERN: What was that?

21 MEMBER ALBERTI: The question was
22 were you notified of the July 25th hearing

1 date? Now, let me tell you I haven't -- in
2 our records, we have a letter to your offices
3 notifying your offices of the date of that
4 hearing. And the date of that letter is June
5 14th.

6 I also have in our files a letter
7 dated June 14th to Mr. Wells informing Mr.
8 Wells of the July 25th hearing. So are you --

9 MR. STERN: I remember --

10 MEMBER ALBERTI: Are you aware
11 that your offices got that letter?

12 MR. STERN: Yes, I was notified.

13 MEMBER ALBERTI: Okay. So you
14 know --

15 MR. STERN: At least twice, once
16 on May 7th --

17 MEMBER ALBERTI: Mr. Wells, did
18 you get that letter?

19 MR. WELLS: I don't recall ever
20 getting the date for the actual hearing.

21 MEMBER ALBERTI: So you don't
22 recall getting that letter from us?

1 MR. WELLS: No, not --

2 MEMBER ALBERTI: Okay. Thank you.

3 CHAIRPERSON MILLER: Yes, Mr.

4 Jones?

5 MEMBER JONES: Do you recall
6 getting a notice about the Show Cause (Status)
7 date? The reason -- yes, do you remember
8 getting a notice about the Show Cause
9 (Status)?

10 MR. WELLS: Yes, I know --

11 MEMBER JONES: Okay.

12 MR. WELLS: -- I did have
13 knowledge of the Show Cause, because I called
14 to actually try to reschedule it and was told
15 that they don't reschedule a Show Cause.

16 MEMBER JONES: So all the
17 information that is in that letter that you
18 received for that notice, you were in receipt
19 of. So if we pull up a copy of that letter
20 that shows the status date --

21 MR. WELLS: I know I have this.

22 MEMBER JONES: -- and all that

1 information in there and everything in there
2 you have received.

3 MR. WELLS: Yes, I did.

4 MEMBER JONES: Okay. You are not
5 new to this process. Was this the first time
6 that you have been brought before us for a
7 Show Cause Hearing?

8 MR. WELLS: Absolutely, yes.

9 MEMBER JONES: It is?

10 MR. WELLS: Yes.

11 MEMBER JONES: Okay. You never
12 had a Show Cause Hearing before?

13 MR. WELLS: No.

14 MEMBER JONES: Okay. Thank you.

15 CHAIRPERSON MILLER: Okay. Any
16 other questions? Okay. So I think we
17 understand your request. And if Board Members
18 are agreeable, I think we should just take
19 that into consideration and, you know, get
20 back to you on that. You know, look at the
21 letters or whatever. Is that amenable to
22 other Board Members?

1 Okay. Because we do have another
2 case also scheduled for a hearing. Okay. So
3 we do understand it. Thank you very much.

4 MEMBER ALBERTI: Do we need to
5 close the meeting to deliberate on this
6 motion?

7 CHAIRPERSON MILLER: Yes, we can
8 do it, at this time.

9 MEMBER ALBERTI: There is a motion
10 before us and we are deliberating on it, so I
11 think we need to close the meeting to
12 deliberate on it.

13 CHAIRPERSON MILLER: Well, that's
14 true if we are going to deliberate in closed
15 session. I mean, you know --

16 MEMBER ALBERTI: Well, I don't
17 know, are we deliberating --

18 CHAIRPERSON MILLER: -- as we
19 deliberate on the agenda.

20 MEMBER ALBERTI: -- now or are we
21 going to vote in closed session?

22 CHAIRPERSON MILLER: I don't think

1 we should deliberate now though.

2 MEMBER SILVERSTEIN: I think we
3 should move to --

4 CHAIRPERSON MILLER: Because I
5 think we need to --

6 MEMBER SILVERSTEIN: -- close the
7 meeting to deliberate at a later date.

8 CHAIRPERSON MILLER: Okay.

9 MEMBER SILVERSTEIN: On each
10 matter.

11 MEMBER ALBERTI: Thank you.

12 CHAIRPERSON MILLER: Okay.

13 MEMBER SILVERSTEIN: And we will
14 do so in --

15 CHAIRPERSON MILLER: If we make --

16 MEMBER SILVERSTEIN: -- compliance
17 with the Open Meetings Act.

18 CHAIRPERSON MILLER: Yes, okay, we
19 may do so in closed session.

20 MEMBER ALBERTI: I thought that's
21 what you were --

22 CHAIRPERSON MILLER: We will take

1 a vote on that.

2 MEMBER ALBERTI: I thought that's
3 what you were implying when we were --

4 CHAIRPERSON MILLER: No. We have
5 motions.

6 MEMBER ALBERTI: -- taking this
7 for consideration.

8 CHAIRPERSON MILLER: Sometimes we
9 have motions that we actually rule on on our
10 agenda, so I didn't know if this might be
11 moving on to the agenda, but we should --

12 MEMBER ALBERTI: Well, let's --

13 CHAIRPERSON MILLER: -- read this
14 just in case.

15 MEMBER ALBERTI: It was an oral
16 motion, so I took it at that.

17 MEMBER SILVERSTEIN: Madam Chair,
18 it was on the agenda in November. I would
19 like to --

20 MEMBER ALBERTI: This motion was
21 not.

22 CHAIRPERSON MILLER: No, this

1 wasn't.

2 MEMBER SILVERSTEIN: Oh.

3 CHAIRPERSON MILLER: Okay. I
4 think we should discuss it.

5 All right. As Chairperson of the
6 Alcoholic Beverage Control Board for the
7 District of Columbia and in accordance with
8 Section 405 of the Open Meetings Amendment Act
9 of 2010, I move that the ABC Board hold a
10 closed meeting for the purpose of seeking
11 legal advice from our counsel on Case No. 11-
12 251-00103, Club Timehri, regarding this Motion
13 for Reconsideration, and deliberating upon it
14 for the reasons cited in 405(b)(13) of the
15 Open Meetings Amendment Act of 2010.

16 Is there a second?

17 MEMBER BROOKS: Second.

18 MEMBER ALBERTI: Second.

19 CHAIRPERSON MILLER: Mr. Alberti
20 seconded the motion. I'll take a roll call
21 vote.

22 Mr. Brooks?

1 MEMBER BROOKS: I agree.

2 CHAIRPERSON MILLER: Mr. Alberti?

3 MEMBER ALBERTI: I agree.

4 CHAIRPERSON MILLER: Ms. Miller

5 agrees.

6 Mr. Silverstein:

7 MEMBER SILVERSTEIN: I agree.

8 CHAIRPERSON MILLER: Mr. Jones?

9 MEMBER JONES: I agree.

10 CHAIRPERSON MILLER: Mr. Jones

11 agrees. The motion is passed by a vote of 5-

12 0-0.

13 I hereby give notice that the ABC
14 Board will hold a closed meeting on this later
15 today in the ABC Board Conference Room
16 pursuant to the Open Meetings Amendment Act of
17 2010.

18 Okay. So all that means is we
19 will discuss it later and get back to you on
20 it. Thank you.

21 MR. STERN: Thank you for your
22 time.

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CHAIRPERSON MILLER: Okay.

MR. WELLS: Thank you.

(Whereupon, the Status Hearing in
the above-entitled matter was concluded at
10:58 a.m.)

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