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

(11:03 a.m.)

CHAIRPERSON MILLER: Okay. The next case on our calendar is Case No. 12-CMP-00473, Family Liquors located at 710 H Street, N.E., License No. 21877 in ANC-6A.

Will the parties, please, come forward?

MEMBER ALBERTI: Ms. Miller, before we step forward --

CHAIRPERSON MILLER: Okay.

MEMBER ALBERTI: -- I will be recusing myself from this case.

CHAIRPERSON MILLER: Okay. Thank you. We still have a quorum. We have four.

This is a Show Cause Hearing, I believe.

MS. PHILLIPS: Yes, Madam Chair, it is.

CHAIRPERSON MILLER: No one is here from the licensee?

MS. PHILLIPS: Louise Phillips,

1 Assistant Attorney General for the District of
2 Columbia. My records show that on the status
3 on February 6th Mr. Hodge was actually here,
4 so he did -- was made aware that day of the
5 date, because it's always gone over at the end
6 of the Status Hearing.

7 CHAIRPERSON MILLER: Correct.

8 MS. PHILLIPS: Since he wanted
9 this hearing, I have had no contact with him
10 since the status and, therefore, I have no
11 idea whether he is coming today or not. But
12 since he has requested the hearing, I suspect
13 that he would be here.

14 The Government is prepared to go
15 forward ex parte if the Board wishes.

16 CHAIRPERSON MILLER: Thank you. I
17 don't believe that the office has been
18 contacted that he is on his way. Okay. I'm
19 just watching the clock. It's 11:04.

20 MS. PHILLIPS: If you would prefer
21 to wait a few minutes, I can wait a few
22 minutes.

1 MEMBER SILVERSTEIN: Move on.

2 CHAIRPERSON MILLER: Okay. All
3 right. I thought I would wait until at least
4 11:05.

5 MEMBER SILVERSTEIN: Okay.

6 CHAIRPERSON MILLER: It is 11:05.

7 MEMBER SILVERSTEIN: Okay.

8 CHAIRPERSON MILLER: If he comes,
9 we can -- we will adjust accordingly. If the
10 licensee shows up, we can make some
11 adjustments accordingly, but yes, the Board is
12 ready for the Government to go forward ex
13 parte.

14 MS. PHILLIPS: And then the
15 Government calls Investigator Brian Owens to
16 the stand, please.

17 CHAIRPERSON MILLER: Good morning.
18 Whereupon,

19 INVESTIGATOR BRIAN OWENS
20 was called as a witness by Counsel for the
21 Government, and having been first duly sworn,
22 assumed the witness stand and was examined and

1 testified as follows:

2 CHAIRPERSON MILLER: Thank you.

3 MS. PHILLIPS: May I begin, Madam
4 Chair?

5 CHAIRPERSON MILLER: Yes.

6 MS. PHILLIPS: All right.

7 CHAIRPERSON MILLER: Please.

8 DIRECT EXAMINATION

9 MS. PHILLIPS: Will you, please,
10 state your name and spell it for the record,
11 sir?

12 INVESTIGATOR OWENS: ABRA
13 Investigator Brian Owens, B-R-I-A-N O-W-E-N-
14 S.

15 MS. PHILLIPS: All right. And
16 your role for the Alcoholic Beverage
17 Regulation Administration?

18 INVESTIGATOR OWENS: I'm an
19 Investigator. I conduct regulatory
20 inspections and investigations of all ABC
21 liquor establishments in the District of
22 Columbia.

1 MS. PHILLIPS: And how long have
2 you been doing that?

3 INVESTIGATOR OWENS: A year and
4 one month.

5 MS. PHILLIPS: And prior to coming
6 on board with ABRA, have you held employment
7 where you conducted investigations of this
8 like or similar?

9 INVESTIGATOR OWENS: Yes, with the
10 Office of Inspector General for the State of
11 Michigan Government.

12 MS. PHILLIPS: And that was as an
13 investigator?

14 INVESTIGATOR OWENS: Yes.

15 MS. PHILLIPS: And how many years
16 did you do that?

17 INVESTIGATOR OWENS: Two years.

18 MS. PHILLIPS: And prior to that,
19 did you have any other investigative
20 experience?

21 INVESTIGATOR OWENS: Yes.

22 MS. PHILLIPS: And what was that?

1 INVESTIGATOR OWENS: I was still
2 with the State of Michigan dealing with sexual
3 abuse.

4 MS. PHILLIPS: Through what
5 agency?

6 INVESTIGATOR OWENS: Child
7 Protective Services.

8 MS. PHILLIPS: Okay. And how many
9 years was that?

10 INVESTIGATOR OWENS: Two.

11 MS. PHILLIPS: And before that?

12 INVESTIGATOR OWENS: That was it.

13 MS. PHILLIPS: Okay.

14 INVESTIGATOR OWENS: I worked at a
15 youth facility before that.

16 MS. PHILLIPS: Okay. Well, thank
17 you.

18 INVESTIGATOR OWENS: Yes.

19 MS. PHILLIPS: Since you have come
20 on board with ABRA, have you been conducting
21 investigations?

22 INVESTIGATOR OWENS: Yes.

1 MS. PHILLIPS: And when you
2 conduct your investigations, do you usually
3 take your findings and put them into a report?

4 INVESTIGATOR OWENS: Yes.

5 MS. PHILLIPS: And did you do so
6 in this case?

7 INVESTIGATOR OWENS: Yes, I did.

8 MS. PHILLIPS: And I believe you
9 have before you Investigation No. 12-CMP-
10 00473. Is that correct?

11 INVESTIGATOR OWENS: Yes.

12 MS. PHILLIPS: And is that the
13 investigation case report that you completed
14 after you conducted your investigation?

15 INVESTIGATOR OWENS: Yes, it is.

16 MS. PHILLIPS: And on the second
17 page of that document, is that your signature?

18 INVESTIGATOR OWENS: Yes, it is.

19 MS. PHILLIPS: And on the third
20 page there is another signature, can you tell
21 me whose signature that is?

22 INVESTIGATOR OWENS: That was the

1 Chief of Enforcement Johnnie Jackson.

2 MS. PHILLIPS: And Chief Jackson
3 signs almost all of the investigative reports
4 after or before the investigator. Is that
5 fair?

6 INVESTIGATOR OWENS: Yes, that's
7 correct.

8 MS. PHILLIPS: All right. So it's
9 my understanding that you conducted an
10 investigation of Family Liquors. Is that
11 correct?

12 INVESTIGATOR OWENS: Yes, I did.

13 MS. PHILLIPS: And why did you go
14 there and what date did you go there?

15 INVESTIGATOR OWENS: Well, on
16 Thursday, July 19, 2012, I was conducting
17 single sale enforcements on the -- in between
18 the 700 and 1200 Block of H Street, N.E., and
19 Family Liquors is on 710 H Street, N.E.

20 MS. PHILLIPS: And, approximately,
21 what time were you conducting these -- this
22 series of investigations along H Street?

1 INVESTIGATOR OWENS: In between
2 11:00 a.m. and 1:00.

3 MS. PHILLIPS: And at what time,
4 approximately, did you visit Family Liquors?

5 INVESTIGATOR OWENS: 11:47 a.m.

6 MS. PHILLIPS: Okay. And what did
7 you do when you entered the establishment?

8 INVESTIGATOR OWENS: When I first
9 entered the establishment, I approached the
10 counter and requested a single can of
11 Budweiser beer. The male cashier stated that
12 he could only sell me packs. And then I
13 requested a bottle of MD 20/20 Peaches & Cream
14 flavor in a cup.

15 Then the male cashier he turned
16 around, went into the cooler. He grabbed a
17 bottle of MD 20/20 and then he reached below
18 the counter and grabbed a white styrofoam cup
19 and that is when I rendered sale for \$2.30.

20 MS. PHILLIPS: Okay. And did you
21 ever get the name of the male clerk?

22 INVESTIGATOR OWENS: No, I did

1 not.

2 MS. PHILLIPS: Okay. And what
3 happened after that?

4 INVESTIGATOR OWENS: After that, I
5 finished my single sale enforcement on the H
6 Street Block. I came back to ABRA, filed my
7 evidence transmittal sheet and submitted
8 everything into the evidence locker.

9 MS. PHILLIPS: Okay. And I
10 understand that a citation was issued in this
11 matter?

12 INVESTIGATOR OWENS: Yes, it was.

13 MS. PHILLIPS: And my
14 understanding is that was not paid, as far as
15 you know. Is that correct?

16 INVESTIGATOR OWENS: No, it has
17 not been, to my knowledge.

18 MS. PHILLIPS: Okay. And that
19 concluded your investigation?

20 INVESTIGATOR OWENS: Yes, ma'am.

21 MS. PHILLIPS: Attached to your
22 investigative report there are some exhibits.

1 I'm turning to Exhibit 1. What is that?

2 INVESTIGATOR OWENS: That's the
3 bottle of MD 20/20 Peaches & Cream flavor that
4 I purchased at Family Liquors.

5 MS. PHILLIPS: And to the left of
6 that, what is that?

7 INVESTIGATOR OWENS: That is the
8 cup that the cashier removed from below the
9 counter that same day.

10 MS. PHILLIPS: All right. And
11 that's known as a go-cup?

12 INVESTIGATOR OWENS: Yes.

13 MS. PHILLIPS: All right. And
14 Exhibit 2 is?

15 INVESTIGATOR OWENS: Exhibit 2 is
16 the evidence transmittal sheet that I
17 completed and transferred over the -- my
18 findings, the bottle and styrofoam cup to the
19 Chief of Enforcement Johnnie Jackson.

20 MS. PHILLIPS: And on Exhibit 2,
21 did you fill out this exhibit?

22 INVESTIGATOR OWENS: Yes.

1 MS. PHILLIPS: And it was signed
2 by Chief Jackson?

3 INVESTIGATOR OWENS: Yes.

4 MS. PHILLIPS: Is that fair?

5 INVESTIGATOR OWENS: Yes.

6 MS. PHILLIPS: And prior to coming
7 into this hearing room today, did you obtain
8 from Chief Jackson the evidence that you
9 collected from Family Liquors on the date in
10 question, which I believe was July 19, 2012?

11 INVESTIGATOR OWENS: Yes, yes.

12 MS. PHILLIPS: Is my predicate all
13 correct?

14 INVESTIGATOR OWENS: Yes, it is.

15 MS. PHILLIPS: Did you check the
16 number and make a determination that this
17 evidence that sits on my table was the
18 evidence that you collected and is also
19 depicted in Exhibit 1?

20 INVESTIGATOR OWENS: That is
21 correct. The evidence is also labeled and
22 matches.

1 MS. PHILLIPS: And so you checked
2 the label with the evidence transmittal sheet?

3 INVESTIGATOR OWENS: Yes.

4 MS. PHILLIPS: Okay. And it was?

5 INVESTIGATOR OWENS: Family
6 Liquors.

7 MS. PHILLIPS: All right. And
8 then Exhibit 3 to your report is?

9 INVESTIGATOR OWENS: The citation
10 that was written to Family Liquors in regards
11 to the go-cup that was provided on the 19th.

12 MS. PHILLIPS: All right.

13 INVESTIGATOR OWENS: Of July.

14 MS. PHILLIPS: All right. And I
15 guess I have attached another investigative
16 sheet. Was that a form of your --

17 INVESTIGATOR OWENS: The
18 investigative history.

19 MS. PHILLIPS: Yes.

20 INVESTIGATOR OWENS: Yes.

21 MS. PHILLIPS: Okay. All right.

22 As we sit here today, is there anything else

1 about your investigation on July 19, 2012 of
2 Family Liquors with regard to a single sale
3 purchase and a go-cup that you have not
4 relayed to the Board?

5 INVESTIGATOR OWENS: No, there is
6 nothing else.

7 MS. PHILLIPS: All right. Then
8 that completes the Government's case. And I
9 do not need to either open later or close.

10 CHAIRPERSON MILLER: Okay.

11 MS. PHILLIPS: But I rest --

12 CHAIRPERSON MILLER: All right.

13 MS. PHILLIPS: -- for the
14 Government, unless the Government -- I mean,
15 unless the Board has questions.

16 CHAIRPERSON MILLER: Board
17 questions? I just have a couple. It looks to
18 me like from July 19th when the violation
19 occurred and August 14th when the citation was
20 issued that that's a long period of time
21 between an incident and issuance of a
22 citation. Is that the norm or is this -- was

1 this a long period of time?

2 INVESTIGATOR OWENS: When the
3 citation was written?

4 CHAIRPERSON MILLER: Yes. Because
5 August 14th was --

6 INVESTIGATOR OWENS: Yes.

7 CHAIRPERSON MILLER: -- the date
8 of the citation.

9 INVESTIGATOR OWENS: Yes. Now,
10 usually we write the citations within a week
11 or two. From my notes around that time, I had
12 wrote the citation, but around that time I
13 went home for a funeral, so when I got back I
14 kind of, you know, backtracked and --

15 CHAIRPERSON MILLER: Okay.

16 INVESTIGATOR OWENS: -- covered
17 all my ins.

18 CHAIRPERSON MILLER: Okay. And
19 the cup here, I don't know if there is a
20 normal size for a go-cup. I'm just wondering
21 if this is particularly large or if this is --

22 INVESTIGATOR OWENS: The cup?

1 CHAIRPERSON MILLER: Yes.

2 INVESTIGATOR OWENS: It's pretty
3 much the normal size. They come -- they
4 vary --

5 CHAIRPERSON MILLER: Okay.

6 INVESTIGATOR OWENS: -- from small
7 to medium. That would be large.

8 CHAIRPERSON MILLER: Okay. Thank
9 you. All right. I don't have any other
10 questions. Anybody else? All right.

11 Ms. Phillips, you have rested your
12 case, correct?

13 MS. PHILLIPS: Yes, I did and I
14 have no questions after the Board asked
15 questions.

16 CHAIRPERSON MILLER: Do you have a
17 comment with respect to the penalty?

18 MS. PHILLIPS: Just a moment.

19 CHAIRPERSON MILLER: Okay.

20 MS. PHILLIPS: I probably do.

21 CHAIRPERSON MILLER: Okay.

22 MS. PHILLIPS: I usually always

1 have a comment.

2 CHAIRPERSON MILLER: All right.

3 MS. PHILLIPS: I recommend a fine
4 of \$350 and a five day suspension, all five
5 days served. Oh and these would be -- oh,
6 actually, this would be the five days stayed
7 from a previous violation is that I see here.

8 CHAIRPERSON MILLER: Oh, okay.

9 MS. PHILLIPS: From what I was
10 going to do at the OIC. So I would have to
11 check, but that's what my notes say.

12 CHAIRPERSON MILLER: Okay. \$350
13 penalty.

14 MS. PHILLIPS: Right.

15 CHAIRPERSON MILLER: Five days
16 served from a previous stay.

17 MS. PHILLIPS: Wait a minute, just
18 a second, let me read it.

19 CHAIRPERSON MILLER: Okay.

20 MEMBER JONES: A point of order
21 just for clarification. Is the witness
22 dismissed or does he need to stay?

1 CHAIRPERSON MILLER: No, he
2 doesn't need to stay.

3 INVESTIGATOR OWENS: Okay.

4 CHAIRPERSON MILLER: Thank you.
5 Sure. Thank you very much.

6 INVESTIGATOR OWENS: Thank you.

7 MS. PHILLIPS: Thank you.

8 (Whereupon, witness was
9 temporarily excused.)

10 CHAIRPERSON MILLER: Okay. Did
11 you want to say more or did I get it
12 correctly? Do you want me to just say it
13 again or no comment? I'll leave it up to you.

14 MS. PHILLIPS: I did not hear when
15 you read it back, but there's no point in
16 doing that if Family Liquors just showed up,
17 because I heard that from the background. I
18 have not looked behind me to see if that's
19 correct.

20 CHAIRPERSON MILLER: Oh, is that
21 correct?

22 MEMBER JONES: It is.

1 MS. PHILLIPS: But I heard --

2 MEMBER JONES: Yes.

3 CHAIRPERSON MILLER: All right.

4 If people are here on Family Liquors, would
5 you come forward?

6 MR. HODGE: Good morning.

7 CHAIRPERSON MILLER: Good morning.

8 Would you identify yourselves for the record?

9 MR. DENNIS HODGE: Dennis Hodge,
10 owner of Family Liquors.

11 MR. LINCOLN HODGE: Lincoln Jerome
12 Hodge, manager of Family Liquors.

13 CHAIRPERSON MILLER: All right.

14 This is what I have to say. The case was
15 called for 11:00 and we waited five minutes
16 and you hadn't called the office or the
17 Government's attorney to say you were on your
18 way, so we started and almost finished the
19 hearing.

20 The Government has presented its
21 case already and its witness. And I will say
22 this, I think what I said was we would have to

1 adjust if you showed up and you have. And I'm
2 going to try to see if we can adjust
3 accordingly.

4 MEMBER BROOKS: Madam Chair, I
5 just have one comment now. On my schedule,
6 this case was scheduled for 10:30. Is that
7 correct?

8 MR. DENNIS HODGE: 11:00.

9 MEMBER BROOKS: 11:00?

10 MS. PHILLIPS: Yes, I think my
11 notice, that I received, says 11:00.

12 MEMBER BROOKS: Oh, okay. All
13 right.

14 CHAIRPERSON MILLER: So I want to
15 try to do what I think is most fair and then
16 we can -- I'll entertain comments.

17 Ms. Phillips, the Government's
18 attorney, put on the stand Mr. Owens, who was
19 the investigator in this case. And he
20 testified to the facts that, basically, are
21 set forth in the case report that you should
22 have received.

1 Do you have a copy of the case
2 report?

3 MS. PHILLIPS: The Government
4 prepared one for him to have if he showed up
5 during the hearing, because it is made a part
6 of the record.

7 CHAIRPERSON MILLER: Okay.

8 MS. PHILLIPS: And I have handed
9 it to him now in case he didn't have one with
10 him this morning.

11 CHAIRPERSON MILLER: Have you seen
12 this report, Mr. Hodge?

13 MR. DENNIS HODGE: Excuse me?

14 CHAIRPERSON MILLER: Have you seen
15 this report?

16 MR. DENNIS HODGE: Yes, ma'am.

17 CHAIRPERSON MILLER: Okay.

18 MR. DENNIS HODGE: I'm looking at
19 it now.

20 CHAIRPERSON MILLER: Huh? All
21 right. I am thinking, at this point, to try
22 to be fair to all parties that Mr. Owens does

1 not need to present his testimony again,
2 because, basically, it's all in this case
3 report and you were late.

4 But I want to give you the
5 opportunity to cross-examine Mr. Owens which
6 would be your right to do and you are not too
7 late for that.

8 I'll entertain any comments before
9 we proceed down this road, because it is a
10 little bit innovative, because you came in in
11 the middle. Is there an objection from the
12 Government to proceeding in that manner?

13 MS. PHILLIPS: Again, I had lost
14 the last part of your sentence, but I assume
15 that you are asking me if I have objection to
16 the way you mentioned we are proceeding and
17 no, the Government has no objection.

18 CHAIRPERSON MILLER: Okay. Do
19 you, Mr. Hodge?

20 MR. DENNIS HODGE: I do because I
21 need to present my case.

22 CHAIRPERSON MILLER: You will

1 present your case. You will absolutely
2 present your case. All you missed was the
3 Government's attorney testifying. You will
4 have a full opportunity to present your case.

5 And I'm just saying rather than
6 having him testify again --

7 MR. DENNIS HODGE: Oh, no, cross-
8 examine him.

9 CHAIRPERSON MILLER: Yes, you can
10 cross-examine him. I'll call him back to the
11 witness stand. All his testimony was based on
12 this case report that you have. So if you
13 have questions for him, these are the facts to
14 question him to.

15 MR. DENNIS HODGE: Yes, ma'am.

16 CHAIRPERSON MILLER: All right.
17 All right. Mr. Owens, would you come back to
18 the witness stand, please?

19 Mr. Owens has already been sworn
20 in, so he doesn't have to be sworn in again.

21 MR. DENNIS HODGE: Okay.

22 Whereupon,

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INVESTIGATOR BRIAN OWENS

was recalled as a witness by the Licensee,
and having been previously duly sworn, resumed
the witness stand, was examined and testified
as follows:

CROSS-EXAMINATION

MR. DENNIS HODGE: Mr. Owens, good
morning, sir.

INVESTIGATOR OWENS: Good morning.

MR. DENNIS HODGE: Mr. Owens, on
the day of July 19, 2012, did you come to
Family Liquors?

INVESTIGATOR OWENS: Yes.

MR. DENNIS HODGE: Were you
working alone?

INVESTIGATOR OWENS: Yes.

MR. DENNIS HODGE: Mr. Owens, you
said you purchased a 375 ml Peaches & Cream
go-cup?

INVESTIGATOR OWENS: Yes, sir.

MR. DENNIS HODGE: Was that
purchase made in cash or credit?

1 INVESTIGATOR OWENS: Cash.

2 MR. DENNIS HODGE: You don't have
3 no other receipt that shows that you were at
4 Family Liquors?

5 INVESTIGATOR OWENS: No.

6 MR. DENNIS HODGE: Can you
7 identify that the person in this room sold you
8 these items?

9 INVESTIGATOR OWENS: No, I cannot.

10 MR. DENNIS HODGE: Why not?

11 INVESTIGATOR OWENS: Because I
12 don't remember the cashier's face
13 specifically.

14 MEMBER SILVERSTEIN: Can you speak
15 up, sir.

16 INVESTIGATOR OWENS: I don't
17 remember what the cashier's face looked like
18 physically. I just know it was a black male.

19 MR. DENNIS HODGE: A black male.
20 Mr. Owens, did you ask for a manager or the
21 owner?

22 INVESTIGATOR OWENS: No, I did

1 not.

2 MR. DENNIS HODGE: Why not?

3 INVESTIGATOR OWENS: I was
4 conducting a single sale enforcement in an
5 undercover capacity, at that time.

6 MR. DENNIS HODGE: Did you address
7 yourself as an inspector?

8 INVESTIGATOR OWENS: No, I did
9 not.

10 MR. DENNIS HODGE: Did you show
11 your badge?

12 INVESTIGATOR OWENS: No, I did
13 not.

14 MR. DENNIS HODGE: Mr. Owens, have
15 you ever been in the back of Family Liquors?

16 INVESTIGATOR OWENS: No, I have
17 not.

18 CHAIRPERSON MILLER: What was the
19 question, sir?

20 MR. DENNIS HODGE: So you don't
21 know --

22 CHAIRPERSON MILLER: Sir, excuse

1 me. Could you repeat your question?

2 MR. DENNIS HODGE: I asked Mr.
3 Owens here if he had ever been in the back of
4 Family Liquor store.

5 CHAIRPERSON MILLER: In the back?

6 MR. DENNIS HODGE: Which means
7 behind the counter.

8 CHAIRPERSON MILLER: Oh, okay.
9 Thank you.

10 MR. DENNIS HODGE: So you don't
11 know what is back there?

12 INVESTIGATOR OWENS: No, sir.

13 MR. DENNIS HODGE: You stated that
14 when you bought the Peaches & Cream --

15 INVESTIGATOR OWENS: Yes.

16 MR. DENNIS HODGE: -- you just --
17 the cashier just reached for a go-cup and
18 handed it to you?

19 INVESTIGATOR OWENS: Yes. He
20 reached under the counter.

21 MR. DENNIS HODGE: Under the
22 counter, sir, is the cooler. It's not a

1 freezer. You can't keep cups of ice on beer.

2 MS. PHILLIPS: Objection to
3 testimony. They are not questions.

4 CHAIRPERSON MILLER: Mr. Hodge?

5 MR. DENNIS HODGE: Oh.

6 CHAIRPERSON MILLER: No, you're
7 doing a good job questioning, but I don't know
8 if you know the rules, but the rules are now
9 you ask questions and you can't testify to
10 anything, but you will be able to.

11 MR. DENNIS HODGE: Okay.

12 CHAIRPERSON MILLER: Okay.

13 MR. DENNIS HODGE: That be all.

14 CHAIRPERSON MILLER: Okay. Is
15 that it?

16 MR. DENNIS HODGE: That be all.

17 CHAIRPERSON MILLER: Okay. Any
18 Board questions? Oh, sorry, any redirect?

19 MS. PHILLIPS: No, but thank you,
20 Madam Chair.

21 CHAIRPERSON MILLER: Whatever.

22 Okay. Thank you very much.

1 (Whereupon, witness was excused.)

2 CHAIRPERSON MILLER: So my
3 understanding is the Government doesn't have
4 anything further to add to your case?

5 MS. PHILLIPS: No. Thank you,
6 Madam Chair, for asking.

7 CHAIRPERSON MILLER: Okay. Unless
8 this causes --

9 MS. PHILLIPS: Yes, we are
10 adapting.

11 CHAIRPERSON MILLER: -- any.
12 Okay. Good. All right. So now, it's your
13 time to do your case, which is if you have
14 direct testimony.

15 MR. DENNIS HODGE: I have the
16 manager of Family Liquors.

17 CHAIRPERSON MILLER: Okay. Okay.

18 MR. DENNIS HODGE: Jerome Hodge.

19 CHAIRPERSON MILLER: He is going
20 to be your witness?

21 MR. DENNIS HODGE: Yes.

22 CHAIRPERSON MILLER: Are you going

1 to ask him questions or is he just going to
2 testify?

3 MR. DENNIS HODGE: He is just
4 going to testify.

5 CHAIRPERSON MILLER: Okay. Are
6 you going to testify as well or just him?

7 MR. DENNIS HODGE: Just him.

8 CHAIRPERSON MILLER: Okay. So,
9 sir, would you come to the witness stand?
10 I'll swear you in.

11 Whereupon,

12 LINCOLN JEROME HODGE
13 was called as a witness by the Licensee, and
14 having been first duly sworn, assumed the
15 witness stand and was examined and testified
16 as follows:

17 CHAIRPERSON MILLER: Okay. Thank
18 you. All right.

19 DIRECT EXAMINATION

20 MR. LINCOLN HODGE: My name is --

21 CHAIRPERSON MILLER: You can sit
22 down.

1 MR. LINCOLN HODGE: I like to
2 stand.

3 CHAIRPERSON MILLER: You like to
4 stand? We will just have to make sure that
5 you can be heard on the mike. Right?

6 MR. LINCOLN HODGE: I'll sit then.

7 CHAIRPERSON MILLER: Okay. That's
8 just because the mike is down there.

9 MR. LINCOLN HODGE: I see. I'm
10 sorry.

11 CHAIRPERSON MILLER: All right.

12 MR. LINCOLN HODGE: My name is
13 Lincoln Jerome Hodge and I'm the manager of
14 Family Liquors for the last 18 years of the
15 existence of the ownership by Dennis Hodge.

16 During my tenure as manager of
17 Family Liquors, we have been told and we have
18 cooperated, in fact, with a number of officers
19 that came to us because of the cleaning and
20 the problems that -- with litter and stuff
21 like that in the front.

22 In fact, Madam Chair, I actually

1 personally is the one that clean the outside
2 every night of the store. And 95 percent of
3 the litter is actually from the carry-outs.

4 We do not -- I'm the purchaser of
5 the merchandise and all the stuff that comes
6 into Family Liquors and we actually do not
7 sell any single ice. What we do is we sell
8 packs of ice, packs of ice in \$1 bags, .50
9 cent bags and \$2 bags.

10 What we actually also do is we
11 sell packs of cups, which is in sixes that
12 come from factory already packed. And it
13 depends on what our customers would ask us, we
14 would actually get other cups, but they are
15 actually packs. So that's what we are
16 selling.

17 I would be very honest with you.
18 I have never seen this gentleman in the store.
19 And we have never had a problem with selling
20 ice cups. We have a very great relationship
21 with the police officers on H Street.

22 What I am very worried about,

1 Madam Chair, is that we had -- you were not
2 here at the time, but we had a previous case,
3 and I'm referring to something that you can
4 actually look in the records about with four
5 police officers actually testifying that they
6 saw us -- they didn't see something.

7 One of them say they saw it. And
8 actually, they came here to testify and we
9 were found -- we were penalized because of
10 that. What maybe happened is that it is known
11 that if you actually say something about
12 Family Liquors, you don't have to present
13 anything. Once you are an officer, you can
14 present it to the Board and Family going to
15 get penalized. I'm worried about that. I'm
16 very worried about that, because it's the
17 second time it has happened.

18 And I'm finished. Thank you.

19 CHAIRPERSON MILLER: Okay. Ms.
20 Phillips?

21 MS. PHILLIPS: Yes.

22 CROSS-EXAMINATION

1 MS. PHILLIPS: Mr. Hodge, are you
2 related to the owner?

3 MR. LINCOLN HODGE: I'm his
4 brother.

5 MS. PHILLIPS: I thought I
6 recollected that from the last hearing of
7 which you spoke.

8 Are you saying that you are the
9 only person who sells during working hours for
10 Family Liquors?

11 MR. LINCOLN HODGE: My brother,
12 myself. Our sister was not there on the 19th
13 of July, as the gentleman indicated the sales
14 went on. She is in and out of the store
15 helping with our mom and stuff like that.

16 MS. PHILLIPS: And I'm sorry, your
17 voice is very low. The last part of your
18 sentence, your sister helps with the?

19 MR. LINCOLN HODGE: I said she
20 works with us.

21 MS. PHILLIPS: Okay.

22 MR. LINCOLN HODGE: She helps out.

1 MS. PHILLIPS: All right. And is
2 there anyone else who works in your store at
3 any point in time during the month of July
4 2012?

5 MR. LINCOLN HODGE: No, ma'am.

6 MS. PHILLIPS: No.

7 MR. LINCOLN HODGE: It's my
8 brother and myself on that particular day,
9 because my sister was actually out.

10 MS. PHILLIPS: Okay. Okay. And
11 you are saying that you do sell packs of cups
12 by sixes? That means six cups in a pack?

13 MR. LINCOLN HODGE: Yes, ma'am.

14 MS. PHILLIPS: And that you never
15 sell single cups?

16 MR. LINCOLN HODGE: We don't sell
17 single cups.

18 MS. PHILLIPS: Okay.

19 MR. LINCOLN HODGE: We can't. We
20 know it's against the law.

21 MS. PHILLIPS: Right.

22 MR. LINCOLN HODGE: And we know

1 there is a law that talks about go-cups and
2 there is a sign as soon as you enter into the
3 store, there is a sign right to the top that
4 indicate what we can do and what we are
5 looking for, the ages and everything.

6 MS. PHILLIPS: Did you bring a
7 picture of those signs today?

8 MR. LINCOLN HODGE: No, I have
9 not.

10 MS. PHILLIPS: Okay. All right.
11 I have no further questions of this witness.
12 Thank you, Board Members.

13 CHAIRPERSON MILLER: Board
14 questions? Ms. Phillips, can I ask you, do
15 you still have that bottle and cup that was on
16 the table?

17 MS. PHILLIPS: I never took
18 custody of it.

19 CHAIRPERSON MILLER: Mr. Owens?

20 MS. PHILLIPS: So if the
21 investigator is still here, he probably still
22 has it next to him.

1 CHAIRPERSON MILLER: Okay. Thank
2 you. Actually, I think that we should show
3 that to Mr. Hodge.

4 MS. PHILLIPS: Thank you. Right,
5 thank you.

6 CHAIRPERSON MILLER: Mr. Hodge,
7 that's the cup that the investigator said he
8 got from your store. It was given to him.
9 Are those the type of cups that you sell?

10 MR. LINCOLN HODGE: No, ma'am.

11 CHAIRPERSON MILLER: You sell the
12 kind of --

13 MR. LINCOLN HODGE: The one -- the
14 No. 1 that actually comes from the
15 distributor. And that's any way -- you can
16 get the same cup from any business. You can
17 have that, you have the same type of MD 20/20.

18 I would like to put my hand on it
19 and look at it a little bit.

20 CHAIRPERSON MILLER: Okay. Okay.
21 Do you have an objection, Ms. Phillips?

22 MS. PHILLIPS: I have no objection

1 to that.

2 CHAIRPERSON MILLER: Okay.

3 MR. LINCOLN HODGE: I was just
4 curious of the writing.

5 CHAIRPERSON MILLER: Okay. And
6 what kind of cups do you sell? You said you
7 don't sell those kinds of cups.

8 MR. LINCOLN HODGE: We sell, what
9 do you call it, 12 ounce cups.

10 CHAIRPERSON MILLER: 12 ounce
11 white styrofoam?

12 MR. LINCOLN HODGE: (No audible
13 answer.)

14 CHAIRPERSON MILLER: 12 ounce
15 white styrofoam like that?

16 MR. LINCOLN HODGE: Yes. We sell
17 the 12 ounce cups that people ask to go with,
18 that's what we sell. And the smaller cups
19 that comes in packs of --

20 CHAIRPERSON MILLER: Okay.

21 MR. LINCOLN HODGE: -- 24 in a
22 case -- in a clear pack. So you've got 6, 12

1 and 24.

2 CHAIRPERSON MILLER: Oh, so you
3 sell 6, 12 and 24 packs?

4 MR. LINCOLN HODGE: 24, yes.

5 CHAIRPERSON MILLER: And you do
6 not open up the packs and sell --

7 MR. LINCOLN HODGE: No, ma'am.

8 CHAIRPERSON MILLER: Okay.

9 MR. LINCOLN HODGE: There is a
10 sign in the store that indicates no single
11 cups.

12 CHAIRPERSON MILLER: And is there
13 another liquor store that is right near you
14 that --

15 MR. LINCOLN HODGE: Who sells? We
16 have carry-outs that sells those type of cups.

17 CHAIRPERSON MILLER: But --

18 MR. LINCOLN HODGE: Which is
19 Majors and Crown Restaurant.

20 CHAIRPERSON MILLER: What do you
21 mean carry-outs? Do they sell liquor, too, or
22 no?

1 MR. LINCOLN HODGE: No, they
2 actually sell cups of ice.

3 CHAIRPERSON MILLER: Just cups?

4 MR. LINCOLN HODGE: Yes. They
5 sell.

6 CHAIRPERSON MILLER: Okay. Okay.
7 Any other questions? Mr. Jones?

8 MEMBER JONES: Thank you, Madam
9 Chair. So it wasn't totally clear to me, so
10 excuse me if this sounds repetitive. But am
11 I to take from your testimony that it is your
12 belief that the investigator is either being
13 dishonest, fabricating or has a reason to have
14 some type of vendetta or some type of desire
15 to shed bad light on your establishment?

16 MR. LINCOLN HODGE: I want to be
17 very open with you and I think that I have
18 made it very clear and I think you were here
19 the time when we had the police officers
20 testify. And I don't know the motive. I
21 really don't know the motive. But I know that
22 this investigator is totally -- he is telling

1 a lie. He is telling a lie.

2 MEMBER JONES: So the investigator
3 in this case you are affirmatively stating
4 that your defense to this allegation is that
5 the investigator is lying?

6 MR. LINCOLN HODGE: Yes.

7 MEMBER JONES: Okay. Thank you.
8 Thank you, Madam Chair.

9 CHAIRPERSON MILLER: Mr. Hodge, I
10 guess my questions earlier were going to the
11 possibility that, you know, your investigator
12 is not telling a lie, but could he be mixing
13 your store up with another store that was
14 nearby.

15 MR. LINCOLN HODGE: Ma'am, I would
16 be very honest. I really don't know, but the
17 last meeting that I came here with the four
18 police officers and I wasn't present when the
19 police officers came to the store. And the
20 change of testimony, you know, I have a
21 different take of what the officials actually
22 does and what the meaning of justice and

1 fairness is.

2 I really have a problem. In fact,
3 I took that case all the way to Human
4 Resources. I went to the Mayor's Office with
5 this case.

6 CHAIRPERSON MILLER: Yes. Mr.
7 Silverstein?

8 MEMBER SILVERSTEIN: One quick
9 question. You say you are absolutely certain
10 you do not sell that size cup, even in large
11 quantities?

12 MR. LINCOLN HODGE: No, sir.

13 MEMBER SILVERSTEIN: You say you
14 serve nothing large than a 12 ounce cup?

15 MR. LINCOLN HODGE: The cups are
16 about big as this. They are -- yes. And then
17 the other ones are small like that, but it
18 comes in 24, they come in 6, they come in 12.

19 MEMBER SILVERSTEIN: And are they
20 paper cups or are they styrofoam cups that you
21 sell?

22 MR. LINCOLN HODGE: No, they are

1 plastic cups.

2 MEMBER SILVERSTEIN: They are
3 plastic? They are not styrofoam? They are
4 not the thick -- can I --

5 MS. PHILLIPS: This appears to
6 be --

7 MEMBER SILVERSTEIN: Can you turn
8 that towards us, so that we can see?

9 MS. PHILLIPS: Here, I'll just
10 bring it up, so you can touch. It appears to
11 be styrofoam.

12 MEMBER SILVERSTEIN: I will not
13 open that if you watch closely.

14 MS. PHILLIPS: Okay.

15 MEMBER SILVERSTEIN: Thank you.
16 This is a styrofoam cup. You are certain you
17 sell no styrofoam cups?

18 MR. LINCOLN HODGE: No, sir.

19 MEMBER SILVERSTEIN: You didn't
20 then and you don't now?

21 MR. LINCOLN HODGE: (No audible
22 answer.)

1 MEMBER SILVERSTEIN: Okay. I have
2 no further questions.

3 CHAIRPERSON MILLER: Mr. Jones?

4 MEMBER JONES: Thank you, Madam
5 Chair. So you were there at the store the
6 19th?

7 MR. LINCOLN HODGE: The 19th, yes,
8 sir.

9 MEMBER JONES: Okay. Do you
10 remember seeing the investigator?

11 MR. LINCOLN HODGE: No.

12 MEMBER JONES: Do you remember the
13 investigator making any purchase from your --

14 MR. LINCOLN HODGE: No.

15 MEMBER JONES: -- establishment?

16 MR. LINCOLN HODGE: No. I didn't
17 see him.

18 MEMBER JONES: So you don't
19 remember him being in your establishment at
20 all?

21 MR. LINCOLN HODGE: No. I'm a
22 notary and I stay at the store, because I'm a

1 notary.

2 MEMBER JONES: Say that one more
3 time.

4 MR. LINCOLN HODGE: I said I'm a
5 notary, so I stays most of the time at the
6 store.

7 MEMBER JONES: Oh, okay,
8 understood. Is there anyone else that was at
9 the store on that day that could have sold to
10 him? And you are pointing at whom?

11 MR. LINCOLN HODGE: My brother.

12 MEMBER JONES: Your brother.
13 Could you identify?

14 MR. LINCOLN HODGE: His name is
15 Dennis Hodge.

16 MEMBER JONES: Okay.

17 MR. LINCOLN HODGE: He's the owner
18 of the store.

19 MEMBER JONES: So he was working
20 there as well --

21 MR. LINCOLN HODGE: Yes, sir.

22 MEMBER JONES: -- on the day of

1 the occurrence?

2 MR. LINCOLN HODGE: Yes, sir.

3 MEMBER JONES: On the alleged
4 occurrence?

5 MR. LINCOLN HODGE: Yes, sir.

6 MEMBER JONES: Okay. So you are
7 saying that you didn't see the investigator
8 come in and you didn't perform the
9 transaction. Are you also saying that it's
10 not possible that your brother could have
11 performed the transaction?

12 MR. LINCOLN HODGE: He wouldn't do
13 that.

14 MEMBER JONES: I understand. I
15 respect your -- I respect that. But that's
16 not what I asked you. Are you saying that
17 it's not possible that your brother did not--

18 MR. LINCOLN HODGE: Did not.

19 MEMBER JONES: You're saying it's
20 not possible that he --

21 MR. LINCOLN HODGE: Not possible.

22 MEMBER JONES: It's not possible

1 that he could make --

2 MR. LINCOLN HODGE: Not possible.

3 MEMBER JONES: Did he make any
4 sales during that day?

5 MR. LINCOLN HODGE: Of course.

6 MEMBER JONES: Okay. So it is
7 possible that he made sales during that day?

8 MR. LINCOLN HODGE: Yes.

9 MEMBER JONES: So it is possible
10 that if you didn't make the sale to the
11 investigator, that the only logical thing you
12 could draw from that is that if you didn't
13 make the sale and that you are one of two
14 people who made sales at that establishment on
15 that day, that the -- that your brother could
16 have made the sale.

17 MR. LINCOLN HODGE: My brother is
18 here. So he has an opportunity --

19 MEMBER JONES: I respect that.

20 MR. LINCOLN HODGE: -- which is
21 that --

22 MEMBER JONES: I respect that.

1 But he is not on the stand, okay?

2 MR. LINCOLN HODGE: I understand.

3 MEMBER JONES: So I'm asking you.

4 MR. LINCOLN HODGE: I'm telling --

5 MEMBER JONES: You are one of two
6 people who could have made the sale, if the
7 sale was made. And you are saying you did
8 not, based on your testimony?

9 MR. LINCOLN HODGE: He did not.

10 MEMBER JONES: No, I'm saying you
11 did not, based on your testimony.

12 MR. LINCOLN HODGE: I did not.

13 MEMBER JONES: Okay. That's all
14 you can really speak to definitively, correct?

15 MR. LINCOLN HODGE: Right.

16 MEMBER JONES: Okay. Thank you.
17 Thank you, Madam Chair.

18 CHAIRPERSON MILLER: Okay. Any
19 other questions? Any questions based on Board
20 questions?

21 MS. PHILLIPS: No. Thank you,
22 Madam Chair, for asking.

1 CHAIRPERSON MILLER: Okay. All
2 right. Then does that complete your
3 testimony? Thank you. You can be excused.
4 Yes?

5 MR. DENNIS HODGE: Let me say one
6 thing.

7 CHAIRPERSON MILLER: Do you have a
8 question?

9 MR. DENNIS HODGE: Yes, yes.

10 REDIRECT EXAMINATION

11 MR. DENNIS HODGE: Giving ice,
12 what do we put the ice in?

13 MR. LINCOLN HODGE: We put in a
14 bag, a very small bag about this big. This
15 high.

16 MR. DENNIS HODGE: Which is
17 equivalent to 24 ounce?

18 MR. LINCOLN HODGE: Yes, right.

19 MR. DENNIS HODGE: Thank you.

20 CHAIRPERSON MILLER: Okay. Do you
21 have any other testimony or documents you want
22 to put into evidence? What?

1 MR. DENNIS HODGE: Do you want me
2 to make my closing argument now?

3 CHAIRPERSON MILLER: Okay. Let me
4 just say, I'm going to ask you what you want
5 to do. Okay. If you want to give any -- talk
6 about any evidence or facts, that's testimony.
7 And I put you under oath and you can give
8 testimony.

9 Otherwise, closing is a summation
10 of, you know, the evidence that is in the
11 record and what it shows, what conclusions we
12 should draw from it. And I won't put you
13 under oath for that.

14 So what would you like to do, at
15 this point?

16 MR. DENNIS HODGE: I would
17 absolutely.

18 CHAIRPERSON MILLER: What?

19 MR. DENNIS HODGE: Take the stand.

20 CHAIRPERSON MILLER: Take the
21 stand?

22 MR. DENNIS HODGE: Yes.

1 CHAIRPERSON MILLER: Okay. Come
2 on up.

3 Whereupon,

4 DENNIS HODGE
5 was called as a witness by the Licensee, and
6 having been first duly sworn, assumed the
7 witness stand and was examined and testified
8 as follows:

9 CHAIRPERSON MILLER: Okay.
10 Thanks. Have a seat.

11 MEMBER SILVERSTEIN: For the
12 record, Mr. Hodge, before you begin
13 testifying, if you could identify yourself and
14 then begin testifying.

15 DIRECT EXAMINATION

16 MR. DENNIS HODGE: Sure. My name
17 is Dennis Hodge, owner of Family Liquors. On
18 the day of July 19, 2012, there were two
19 people in the store, myself and Jerome Hodge.
20 To my knowledge, I have never seen Mr. Owens
21 came in the store and never sold to Mr. Owens
22 on that day.

1 No one came to the store. If
2 there was a violation, Mr. Owens would have
3 shown his badge, said I'm an inspector, that
4 would have been enough evidence there to say
5 hey, you are in violation.

6 Let me point out the purchase of
7 Peaches & Cream and a cup of ice. We sell
8 Peaches & Cream for \$2 and -- which is a bag
9 of ice, which is equivalent to the 24 ounce
10 foam cup that you see there for .50 cents.

11 MEMBER SILVERSTEIN: Could you say
12 that again? I didn't hear you.

13 MR. DENNIS HODGE: The Peaches &
14 Cream.

15 MEMBER SILVERSTEIN: For \$2.

16 MR. DENNIS HODGE: We sell for \$2.
17 And a cup of ice or a bag of ice, which is
18 equivalent to a cup of ice. So it's .50
19 cents. That would be \$2.50. Mr. Owens said
20 he -- his purchase was \$2.30, that didn't add
21 up. There are two restaurants close by,
22 Majors and Crown. They sell 24 ounce go-cups

1 all day. That would be all, sir.

2 CHAIRPERSON MILLER: Cross?

3 MS. PHILLIPS: No questions.

4 Thank you, Madam Chair.

5 CHAIRPERSON MILLER: Board

6 Members?

7 MEMBER BROOKS: A question.

8 CHAIRPERSON MILLER: Yes, Mr.

9 Brooks?

10 MEMBER BROOKS: Thank you, Madam

11 Chair. Mr. Hodge, I just want to clear up

12 something for my own information. I have a

13 copy of the Notice of Violation, I think it

14 was dated 8/14/12, that apparently was issued

15 by the investigator. And did you sign this?

16 MR. DENNIS HODGE: I signed that,

17 yes.

18 MEMBER BROOKS: You did sign it?

19 MR. DENNIS HODGE: Well, I -- he

20 was waiting for me to sign it. I had to sign

21 it.

22 MEMBER BROOKS: Okay. And who

1 brought it in to you?

2 MR. DENNIS HODGE: An investigator
3 brought it in. I don't remember his name.

4 MEMBER BROOKS: So it wasn't
5 Investigator Owens?

6 MR. DENNIS HODGE: No.

7 MEMBER BROOKS: Okay.

8 MR. DENNIS HODGE: That's the
9 first time I seen Mr. Owens.

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

12 CHAIRPERSON MILLER: Okay. Mr.
13 Hodge, how do you remember July 19th? I mean,
14 how do you distinguish that day from any other
15 day that --

16 MR. DENNIS HODGE: Because when
17 you said July 19th we sold him Peaches & Cream
18 and looking at the person, no, I did not sell
19 Mr. Owens Peaches & Cream or a go-cup or --

20 CHAIRPERSON MILLER: Oh, I see.

21 MR. DENNIS HODGE: -- anything. I
22 didn't ring it up.

1 CHAIRPERSON MILLER: So --

2 MR. DENNIS HODGE: It is -- it was
3 two of us in the store. It's either Jerome or
4 myself. I asked Mr. Owens if he can recognize
5 any one of us. He said no. I asked him if he
6 -- how did he purchase the item. He said
7 cash. If it would have been a credit card and
8 show the slip, \$2.30, I would have said okay,
9 you probably was in the store.

10 Otherwise than that, I don't think
11 Mr. Owens was in the store.

12 CHAIRPERSON MILLER: Okay. Thank
13 you. Any questions? You have a chance to do
14 a follow-up question if you want on the
15 Board's question. If you have -- we asked a
16 question and if you had a follow-up question
17 to our question, you would be entitled to ask.

18 MR. DENNIS HODGE: No.

19 CHAIRPERSON MILLER: Okay. All
20 right. Do you, Ms. Phillips?

21 CROSS-EXAMINATION

22 MS. PHILLIPS: When people pay

1 cash, as Mr. Owens did, do you give receipts?

2 MR. DENNIS HODGE: Not always.

3 MS. PHILLIPS: Not always. Thank
4 you.

5 CHAIRPERSON MILLER: Okay. I
6 think that concludes your testimony.

7 MR. DENNIS HODGE: Thank you.

8 CHAIRPERSON MILLER: Thank you.
9 Okay.

10 MEMBER SILVERSTEIN: Madam Chair,
11 there is a signature on this Notice of
12 Violation that was served on August 14th and
13 I'm wondering if there is a possibility that
14 we might determine whose signature is on
15 there?

16 MS. PHILLIPS: Mr. Brooks asked
17 that question. I'm sorry.

18 CHAIRPERSON MILLER: Was there an
19 answer to the question?

20 MS. PHILLIPS: Yes. It was Mr.
21 Hodge's, Dennis Hodge's signature. Correct?

22 MEMBER SILVERSTEIN: No, there is

1 a signature for the ABRA Investigator.

2 MS. PHILLIPS: Oh.

3 MEMBER SILVERSTEIN: And I'm
4 wondering if we could --

5 MS. PHILLIPS: The report says it
6 is Parker.

7 MEMBER SILVERSTEIN: Parker.

8 MS. PHILLIPS: It's Mr. Parker.
9 And I think that is in the testimony of --

10 MEMBER SILVERSTEIN: Okay.

11 MS. PHILLIPS: -- Mr. Owens.

12 MEMBER SILVERSTEIN: Okay.

13 CHAIRPERSON MILLER: Any other
14 questions? Mr. Hodge, do you have any other
15 testimony or documents that you want to put
16 into the record?

17 MR. DENNIS HODGE: Mr. Parker as
18 you said came to the store. He was serving me
19 the charge. So I had to sign it.

20 CHAIRPERSON MILLER: Okay.

21 MR. DENNIS HODGE: I had to.

22 CHAIRPERSON MILLER: Right.

1 That's understood.

2 MR. DENNIS HODGE: I had no way to
3 objecting to that.

4 CHAIRPERSON MILLER: Okay. But
5 does that complete your case?

6 MR. DENNIS HODGE: Yes, ma'am.

7 CHAIRPERSON MILLER: Okay. Ms.
8 Phillips, do -- you were not going to give a
9 closing before, but are you going to give a
10 closing?

11 MS. PHILLIPS: I think it is
12 probably a good idea now that we have more
13 than just the Government's evidence --

14 CHAIRPERSON MILLER: Yes, I
15 thought you might --

16 MS. PHILLIPS: -- on record.

17 CHAIRPERSON MILLER: --
18 reconsider. Okay. So she will give her
19 closing first, that's the way the process is
20 and then you will give a closing. Okay.

21 MS. PHILLIPS: Thank you.

22 CHAIRPERSON MILLER: All right.

1 MS. PHILLIPS: May I begin now,
2 Madam Chair?

3 CHAIRPERSON MILLER: Yes, please.

4 MS. PHILLIPS: All right. The
5 evidence as presented by the Government
6 through testimony of Investigator Owens is
7 that he has been an investigator for ABRA for
8 a year or so. And he has done investigations
9 for two other agencies in the State of
10 Michigan totalling to six, seven, eight, if my
11 recollection is incorrect, the evidence that
12 he testified to, he has no reason to make up
13 a story that he went in to this establishment.

14 That is his job to do these kind
15 of investigations. And while he investigated
16 more stores, he testified that he filled out
17 an investigation form and marked the actual
18 cup and the actual bottle of alcohol as he was
19 filling out the evidence transmittal form,
20 which is Exhibit 2. And he identified the
21 actual evidence and that's recorded in Exhibit
22 2 as the evidence he collected at Family

1 Liquors. And he took a picture of the
2 evidence, which is Exhibit 1.

3 Having been doing this sort of
4 evidentiary presentation using Government
5 witnesses, I have heard these accusations that
6 Government witnesses are in collusion and have
7 never found it to be the case.

8 However, MPD officers did testify
9 at the last hearing, which Mr. Hodge, I think
10 both Mr. Hodges referenced, four MPD officers
11 testified. Their testimony was questioned by
12 these gentlemen as they have indicated during
13 their testimony during this hearing.

14 In that particular case, which is
15 11-251-96, it was a sale to minors. Four
16 police officers testified.

17 In this particular case, no police
18 officers are testifying, but an ABRA
19 Investigator is testifying.

20 There is no reason for either
21 police officers or ABRA Investigators to make
22 up charges of any kind. And, therefore, I

1 think that the Board needs to take into
2 account that really MPD officers and ABRA
3 Investigators have no reason to make up
4 stories about a particular agency or
5 establishment.

6 And, therefore, based on the
7 evidence that we have before us, I believe
8 that if you were weighing the evidence, the
9 Government's evidence could be weighed to the
10 point of having carried the charge forward and
11 that you should find in favor of the
12 Government and that you should charge Family
13 Liquors a fine of \$350.

14 And you will note that the case
15 about which Mr. Hodge testified, the previous
16 case was 11-251-96, on 11/30/11 -- no,
17 3/17/12, the Board held five days stayed for
18 one year and, therefore, the five days that I
19 said should be triggered from any resolution
20 of this case would be from that case. And
21 that's what I was talking about when I
22 suggested a fine previously.

1 And, therefore, a fine of \$350
2 with no days stayed for this particular
3 incident, but the five days must be served
4 from the previous incident, which you will
5 find in the investigative history, which is
6 attached to this report. That is all. Thank
7 you, Madam Chair, and Board Members.

8 CHAIRPERSON MILLER: Thank you.

9 MS. PHILLIPS: Oh, I'm sorry, one
10 more point. Investigator Owens testified that
11 he was undercover and, therefore, would not be
12 showing badges and would not be showing any
13 kind of identification. Undercover work is
14 undercover work.

15 Now I'm finished. Thank you.

16 CHAIRPERSON MILLER: All right.
17 Thank you. Mr. Hodge, when you are ready.

18 MR. DENNIS HODGE: Ma'am, madam?

19 CHAIRPERSON MILLER: Yes.

20 MR. DENNIS HODGE: A violation is
21 a violation. An investigator come to the
22 store and there is a violation, he should

1 present himself as an inspector and show his
2 badge. That would be the evidence.

3 Total sales that Mr. Owens said on
4 that date doesn't add up to his total. I
5 asked Mr. Owens if he identify, you know, one
6 of us today who sold him the items. He said
7 no, he cannot identify.

8 What we have in the store is
9 plastic bags and cups that is in packages,
10 clear box, not foam cups. Thank you, ma'am.

11 CHAIRPERSON MILLER: Okay. Thank
12 you. So that completes this case. I'm going
13 to close the record, so this is the last call
14 if there is anything else you want to submit
15 as evidence for the Board to consider.

16 Okay. Not hearing --

17 MS. PHILLIPS: Madam Chair, I will
18 have this locked back up in the evidence
19 locker, this actual evidence as opposed to
20 pictures.

21 CHAIRPERSON MILLER: Okay.

22 MS. PHILLIPS: That will leave

1 this room in the custody of the investigator
2 and be locked up in the evidence locker that
3 you have back there somewhere.

4 CHAIRPERSON MILLER: Do you have
5 an objection to that? Okay. Then that will
6 be Government's Exhibit No. 1. Is that 1?

7 MS. PHILLIPS: I think it's 1A
8 maybe.

9 CHAIRPERSON MILLER: Is 1 the cup?

10 MS. PHILLIPS: 1A.

11 CHAIRPERSON MILLER: 1A?

12 MS. PHILLIPS: Because the picture
13 is Exhibit 1 to the report. I hate to label
14 things identically --

15 CHAIRPERSON MILLER: Okay.

16 MS. PHILLIPS: -- to the exhibits
17 in the report.

18 MEMBER BROOKS: Because --

19 MS. PHILLIPS: So 1A --

20 CHAIRPERSON MILLER: -- there
21 already is an exhibit to the case report, do
22 you want to distinguish that?

1 MS. PHILLIPS: Yes, ma'am.

2 CHAIRPERSON MILLER: Okay. 1A.

3 MS. PHILLIPS: If at all possible.

4 CHAIRPERSON MILLER: 1A. Okay.

5 MS. PHILLIPS: And the picture is
6 Exhibit 1. I just rechecked in case my memory
7 was faulty.

8 CHAIRPERSON MILLER: Yes.

9 MS. PHILLIPS: So if the actual
10 evidence is 1A, that would keep the record
11 clear.

12 CHAIRPERSON MILLER: All right.

13 (Whereupon, the document was
14 marked for identification as
15 Government Exhibit 1A and was
16 received in evidence.)

17 CHAIRPERSON MILLER: All right.

18 MS. PHILLIPS: Thank you.

19 CHAIRPERSON MILLER: Okay.

20 Finally, I want to ask, this may take an
21 explanation, but I want to ask, the parties if
22 they want to file proposed findings of fact

1 and conclusions of law or waive their right to
2 do so.

3 MS. PHILLIPS: The Government
4 waives.

5 CHAIRPERSON MILLER: Okay. Do you
6 understand the question? Okay. Do you waive?

7 MR. DENNIS HODGE: Yes, ma'am.

8 CHAIRPERSON MILLER: Okay. All
9 right. Then the Board is going to consider
10 this in closed session and will issue an order
11 within 90 days. Okay. Thank you.

12 MS. PHILLIPS: Thank you, Board
13 Members.

14 CHAIRPERSON MILLER: Thank you.
15 We will take our vote on closed session, but
16 you all don't have to wait for that.

17 As Chairperson of the Alcoholic
18 Beverage Control Board for the District of
19 Columbia and in accordance with Section 405 of
20 the Open Meetings Amendment Act of 2010, I
21 move that the ABC Board hold a closed meeting
22 for the purpose of seeking legal advice from

1 our counsel on Case No. 12-CMP-00473, Family
2 Liquors, per Section 405(b)(4) of the Open
3 Meetings Amendment Act of 2010, and
4 deliberating upon this case for the reasons
5 cited in Section 405(b)(13) of the Open
6 Meetings Amendment Act 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 before us now that it
12 has been seconded.

13 Mr. Brooks?

14 MEMBER BROOKS: I agree.

15 CHAIRPERSON MILLER: Ms. Miller
16 agrees.

17 Mr. Silverstein?

18 MEMBER SILVERSTEIN: I agree.

19 CHAIRPERSON MILLER: Mr. Jones?

20 MEMBER JONES: I agree.

21 CHAIRPERSON MILLER: It appears
22 that the motion has passed by a vote of 4-0-0.

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I hereby give notice that the ABC Board will hold a closed meeting in the ABC Board conference room today or the following Wednesday pursuant to the Open Meetings Amendment Act of 2010 and issue an order within 90 days.

Okay. And that completes our hearings for the morning session and the Board will now recess.

(Whereupon, the Show Cause Hearing in the above-entitled matter was concluded at 11:59 a.m.)

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