

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :
: :
Chief Ike's Mambo Room : Show Cause
1723 Columbia Road, NW : Hearing
Retailer CR : (Status)
License No. 17940 :
New Application :
Case No. 12-CMP-00597 :
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May 15, 2013

The Alcoholic Beverage Control Board met in Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street N.W., Washington, D.C., Chairman Ruthanne Miller, presiding.

PRESENT
RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
DONALD BROOKS, Member
MICHAEL SILVERSTEIN, Member

ALSO PRESENT:
MICHAEL STERN, OAG
TYRONE LAWSON, Investigator (former)

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

(11:20 a.m.)

CHAIRPERSON MILLER: Okay, we have another hearing on our calendar this morning.

That is Case Number 12-CMP-00597. Chief Ike's Mambo Room. Located 1723 Columbia Road Northwest, License Number 17940 and ANC 1C. I don't know if the parties are here.

Okay. The parties can come forward on Ike's Mambo Room.

MR. STERN: I apologize. May I have like three minutes?

CHAIRPERSON MILLER: Sure, why don't we take a five minute break.

(Whereupon, the foregoing matter went off the record at 11:21 a.m. and went back on the record at 11:27 a.m.)

CHAIRPERSON MILLER: Are the other parties here?

MR. STERN: Yes.

CHAIRPERSON MILLER: Okay, they ready?

1 MR. STERN: Yes.

2 CHAIRPERSON MILLER: So this is
3 the case of Chief Ike's Mambo room, Case
4 Number 12-CMP-00597.

5 MR. STERN: Mike Stern
6 representing the District of Columbia.

7 CHAIRPERSON MILLER: So when
8 you're ready, if you could introduce yourself
9 to the record.

10 MR. JIRIKOWIC: Excuse me.

11 CHAIRPERSON MILLER: Could you
12 introduce yourself for the record.

13 MR. JIRIKOWIC: Oh, hi.

14 CHAIRPERSON MILLER: Hi.

15 MR. JIRIKOWIC: Good morning
16 everyone. My name is Allan Jirikowic, I'm the
17 co-owner of Chief Ike's Mambo Room. At 1725
18 Columbia Road, N.W. Washington D.C.

19 CHAIRPERSON MILLER: Okay. I have
20 on my record 1723, 1725?

21 MR. JIRIKOWIC: Well, it's two
22 buildings put together. So we operationally

1 use 1725, but if you want to use 1723 it'll
2 get there.

3 CHAIRPERSON MILLER: Okay. All
4 right. And your name was what?

5 MR. JIRIKOWIC: Allan. You can
6 call me Al, and Jirikowic, that's J-I-R-I-K-O-
7 W-I-C.

8 CHAIRPERSON MILLER: All right.
9 And what's your relation to the establishment?

10 MR. JIRIKOWIC: Oh, I'm the
11 general manager and owner, co-owner of Chief
12 Ike's.

13 CHAIRPERSON MILLER: And you're
14 with?

15 MR. BELMONTE: Robert's on my
16 team.

17 CHAIRPERSON MILLER: Belmonte?

18 MR. BELMONTE: Yes, B-E-L-M-O-N-T-
19 E, first name Robert.

20 CHAIRPERSON MILLER: And what's
21 your relation?

22 MR. BELMONTE: General manager.

1 CHAIRPERSON MILLER: Okay.
2 Because the name I have in the record is Mr.
3 Ger?

4 MR. JIRIKOWIC: Excuse me?

5 CHAIRPERSON MILLER: The name I
6 have in the record, is Tersely Michael Ger?

7 MR. JIRIKOWIC: Oh, that's my
8 partner. He's not here.

9 CHAIRPERSON MILLER: Okay. And
10 what part ownership do you have?

11 MR. JIRIKOWIC: Fifty.

12 CHAIRPERSON MILLER: Fifty, okay.
13 And you're in our records?

14 MR. JIRIKOWIC: Yes.

15 CHAIRPERSON MILLER: As a part
16 owner?

17 MR. JIRIKOWIC: Yes.

18 CHAIRPERSON MILLER: Okay. Mr.
19 Stern, are there any preliminary matters?

20 MR. STERN: None in this case.

21 CHAIRPERSON MILLER: Okay. Do you
22 understand how these proceedings work?

1 MR. JIRIKOWIC: Yes.

2 CHAIRPERSON MILLER: Okay. All
3 right then I won't have to go through the
4 procedure of explaining them. All right.

5 Mr. Stern, then are you ready to
6 present your case?

7 MR. STERN: We are ready.

8 The Government's evidence will
9 show that on October 4, 2012, Mr. Lawson who
10 was at that time investigator for the Alcohol
11 Beverage Regulation Administration, entered
12 the establishments, spoke to a bartender, and
13 asked to speak to the ABC manager on duty.

14 At the time the bartender says no
15 one was there. She went and made a phone call
16 and returned and told the manager that, excuse
17 me, told the investigator that the ABC manager
18 would be there in five minutes.

19 He waited, what he estimated at 20
20 minutes, no one appeared, he left. Came back
21 about an hour later. Half hour later. At
22 that time the ABC manager was there and

1 explained that he'd been out to his lunch.

2 At the conclusion of the case, the
3 Government will ask that establishment be
4 found responsible for the violation.

5 CHAIRPERSON MILLER: Okay. You
6 have an option of making an opening statement
7 now, or when you present your case which will
8 be after Mr. Stern presents his case. And you
9 don't have to make one at all, just telling
10 you.

11 MR. STERN: Okay.

12 CHAIRPERSON MILLER: You want to
13 wait until it's your case?

14 MR. JIRIKOWIC: Sure.

15 CHAIRPERSON MILLER: All right,
16 Mr. Stern, you want to call your first
17 witness?

18 MR. STERN: Can you give us your
19 name, spelling the last name for the record
20 please?

21 MR. LAWSON: Tyrone Lawson L-A-W-
22 S-O-N.

1 Mr. Stern: And, Mr. Lawson, are
2 you employed?

3 MR. LAWSON: Yes.

4 Mr. Stern: How are you employed
5 now?

6 MR. LAWSON: With the District of
7 Columbia Government, in the Department of
8 Consumer Regulatory Affairs.

9 Mr. Stern: Okay. Going back to
10 October 4, 2012, were you employed at that
11 time?

12 MR. LAWSON: Yes.

13 Mr. Stern: And how were you
14 employed at that time?

15 MR. LAWSON: With the Alcohol and
16 Beverage Regulation Administration, as an
17 investigator.

18 Mr. Stern: Okay. Going back to
19 that time at approximately 10:40 p.m. were you
20 on duty at that time?

21 MR. LAWSON: Yes.

22 Mr. Stern: And did an

1 establishment which became known to you as
2 Chief Ike's Mambo Room, attract your
3 attention, at that time?

4 MR. LAWSON: I wouldn't say it
5 attracted my attention. I was assigned to
6 deliver the notices and licenses for holiday
7 extension of hours. And I visited Chief Ike's
8 to deliver a notice I believe, regarding their
9 application.

10 Mr. Stern: Okay, and you got
11 there what happened.

12 MR. LAWSON: I went to the
13 bartender and asked the bartender, the female
14 bartender, for a ABC manager or owner of the
15 establishment.

16 Mr. Stern: Okay. And what did
17 she explained to you?

18 MR. LAWSON: She told me that
19 there was no ABC manager on the premises at
20 that time.

21 Mr. Stern: Was she an ABC
22 manager?

1 MR. LAWSON: No.

2 Mr. Stern: Was there the owner at
3 the present?

4 MR. LAWSON: No.

5 Mr. Stern: Okay, what did the
6 bartender do if anything?

7 MR. LAWSON: At some point during
8 our conversation she stated she was going to
9 call the ABC manager.

10 Mr. Stern: Okay. And did she
11 leave to do that?

12 MR. LAWSON: She made a phone
13 call, and said that she called the ABC
14 manager.

15 Mr. Stern: Okay.

16 MR. LAWSON: And she returned to
17 me and stated that the ABC manager would be
18 there in five minutes or so.

19 Mr. Stern: Okay. And did she
20 identify who that was?

21 MR. LAWSON: I believe she did say
22 a name, I don't recall which name it was that

1 she said. She did say a name.

2 Mr. Stern: Okay. Would reviewing
3 your reports refresh your recollection?

4 MR. LAWSON: Yes.

5 Mr. Stern: Regarding that name?
6 Let me show you a copy of your report just for
7 purposes of refreshing your recollection.

8 Does that refresh your
9 recollection as to what the name of the
10 manager was?

11 MR. LAWSON: Yes. She said
12 Michael Ryan.

13 Mr. Stern: Okay. And what did
14 you do when she said Mr. Ryan would be there
15 in five minutes?

16 MR. LAWSON: I said okay. I waited
17 and this was in addition to the time of the
18 period I had already been there, approximately
19 ten minutes. So I thought I would wait a few
20 minutes. And I did wait.

21 Mr. Stern: Okay, and did Mr. Ryan
22 show up?

1 MR. LAWSON: No, well, during the
2 time I was there he didn't show up, so I got
3 impatient and I had other deliveries to do.
4 And I told Ms. Geneva that I would return. I
5 left and told her I would return.

6 Mr. Stern: Okay. And when you
7 were there at that time, were there alcoholic
8 beverages being served?

9 MR. LAWSON: Yes.

10 Mr. Stern: And how did come to
11 that conclusion?

12 MR. LAWSON: I photographed I
13 believe there were open containers of beer,
14 that was on the bar in front of patrons.

15 Mr. Stern: Does that mean that
16 it's part of your report as well?

17 MR. LAWSON: Yes.

18 Mr. Stern: Did you return that
19 day to Chief Ike's?

20 MR. LAWSON: Yes, I did.
21 Approximately a half hour later.

22 Mr. Stern: Okay. And at that

1 time did you speak to anybody?

2 MR. LAWSON: Yes.

3 Mr. Stern: Who did you speak
4 with?

5 MR. LAWSON: I believe it was Mr.
6 Ryan.

7 Mr. Stern: Okay. And did Mr.
8 Ryan give you any explanation for why he was
9 not there earlier?

10 MR. LAWSON: Well he said, it
11 wasn't him that was there, it was another ABC
12 manager that was suppose to be there. And the
13 other ABC manager he said he was doing his
14 laundry, or went to do his laundry.

15 And he had some conversation with
16 me about, well, what happens if ABC managers
17 need to take a break, or leave or something of
18 that nature.

19 Mr. Stern: Okay. So he's the one
20 that told you that there was no ABC manager
21 there during that time?

22 MR. LAWSON: Well, he told me that

1 the assigned, the on duty ABC manager was not
2 there, that he had been out, off the premises
3 doing his laundry nearby. At some residence
4 nearby.

5 MR. STERN: Okay. Thank you,
6 that's all the questions I have.

7 CHAIRPERSON MILLER: Okay, thank
8 you. Do you have any question for Mr. Lawson?
9 Based on his testimony?

10 MR. BELMONTE: No.

11 CHAIRPERSON MILLER: Okay. Board
12 members have any questions?

13 No? Thank you very much, Mr.
14 Lawson.

15 MR. STERN: That's all the
16 Government has on in this matter.

17 CHAIRPERSON MILLER: Okay.

18 MR. BELMONTE: Do we get to?

19 CHAIRPERSON MILLER: Yes, you get
20 to. So who is going to testify?

21 MR. BELMONTE: I shall.

22 CHAIRPERSON MILLER: You will,

1 okay. So I'm going to swear you in.

2 MR. BELMONTE: Okay.

3 CHAIRPERSON MILLER: And you can
4 either stay there or go up there, whatever's
5 your choice.

6 MR. BELMONTE: Okay.

7 CHAIRPERSON MILLER: Okay. You
8 can start again with your name and then state
9 however.

10 MR. BELMONTE: Robert Belmonte.
11 I'm General manager at Chief Ike's Mambo Room.

12 MR. STERN: Is he going to take
13 the stand and be questioned?

14 CHAIRPERSON MILLER: He's going to
15 be questioned. Sometimes when it's the same
16 witness --

17 MR. STERN: He's general manager,
18 he's not an owner.

19 CHAIRPERSON MILLER: What?

20 MR. STERN: This gentleman is not
21 an owner, he's the General manager.

22 CHAIRPERSON MILLER: You prefer

1 that he be at the --

2 MR. STERN: Well, I prefer that he
3 be questioned too, rather than --

4 CHAIRPERSON MILLER: He will be
5 questioned. He's going to testify and then
6 you'll have an opportunity to question him.

7 MR. STERN: No, I understand. But
8 generally witnesses don't just give narratives
9 of what they want, they're asked questions by
10 the representative of the establishment and
11 they answer those questions. Only a witness
12 who's representing himself can give a
13 narrative.

14 CHAIRPERSON MILLER: I don't know
15 where that rule is. I mean he doesn't have an
16 attorney or anything.

17 MR. STERN: But he's represented
18 by the owner of the establishments.

19 The owner of the establishment is
20 here, he's representing the establishment, as
21 the owner. He's brought a witness, which is
22 perfectly all right. He should be presented

1 on the witness stand --

2 CHAIRPERSON MILLER: He can take
3 the witness then, but it's often, it's been
4 our practice that they've been allowed just to
5 testify.

6 MR. STERN: But I haven't seen
7 that before.

8 MEMBER SILVERSTEIN: Madam
9 Chairman?

10 CHAIRPERSON MILLER: Do you have
11 a, I'll listen, hear from Board members.

12 MEMBER SILVERSTEIN: Mr. Jirikowic
13 is the managing partner, and Mr. Belmonte is
14 his witness. And is not an owner, and if Mr.
15 Stern feels that the witness should be treated
16 as any other witness, then I'm comfortable
17 with that as well.

18 He's not representing the
19 establishment, he is a witness for the
20 establishment. He's not been designated as
21 the representative of the establishment, he's
22 a witness.

1 CHAIRPERSON MILLER: Okay.

2 MR. STERN: It's technical.

3 CHAIRPERSON MILLER: Yes, I
4 understand.

5 MR. BELMONTE: I deferred our
6 opening statement.

7 CHAIRPERSON MILLER: Wait, are you
8 representing?

9 MR. BELMONTE: As the General
10 manager and ABC manager of the establishment,
11 and yes.

12 CHAIRPERSON MILLER: Yes.

13 MR. BELMONTE: I mean she just
14 asked me what happened that night, and I can
15 tell him. Or you guys --

16 CHAIRPERSON MILLER: Let me just
17 ask, I don't know whether he's going to
18 participate at all or not. Or whether you are
19 acting as the representative, the advocate.
20 Like, you don't have an attorney, that you're
21 going to do an opening statement, closing
22 statement.

1 MR. BELMONTE: I'm here to act on
2 his behalf because he was not there and I was
3 there that evening.

4 I spoke to Mr. Lawson and I guess,
5 if you want to put it that way, I don't know.

6 MR. STERN: I find that unusual
7 but I don't think that, I don't think it will
8 make a difference in the long run.

9 CHAIRPERSON MILLER: Okay.

10 MR. STERN: So if you want to do
11 it that way, and the Board wants to do it that
12 way, let's do it that way.

13 CHAIRPERSON MILLER: I don't see
14 that it's contrary to any law per se. And
15 when we have lay witnesses and it sometimes,
16 that we have a little overlap that way. So
17 okay. I don't see a problem with it.

18 So right now are you going to do
19 an opening statement on behalf of the
20 licensee?

21 MR. BELMONTE: Yes, I just wanted
22 to sort of explain from our point of view.

1 CHAIRPERSON MILLER: Or are you
2 going to give testimony about the incident?

3 MR. BELMONTE: I'm not sure of the
4 split of the --

5 CHAIRPERSON MILLER: Okay.

6 MR. JIRIKOWIC: Why don't we put
7 it this way. Let's have Robert tell you what
8 he told me the next day? In relationship to
9 this incident.

10 MALE PARTICIPANT: I'm going to
11 point out on this. He's going to have to be
12 sworn in.

13 CHAIRPERSON MILLER: Okay. He is
14 sworn in.

15 MR. JIRIKOWIC: Because the events
16 as explained by the investigator do not
17 coincide with what I was told.

18 CHAIRPERSON MILLER: Okay, you're
19 not under oath, so what you're saying.

20 MR. JIRIKOWIC: I'm saying that's
21 a problem for me. So I'd like to, I'll go
22 under oath though.

1 CHAIRPERSON MILLER: It's really,
2 it's really, you know.

3 MR. JIRIKOWIC: Are we making this
4 to complicated?

5 CHAIRPERSON MILLER: Yes, I mean,
6 yes. I just want to take in the incident.

7 MR. JIRIKOWIC: Okay.

8 CHAIRPERSON MILLER: But to only
9 just tell you, just for distinction with what
10 Mr. Stern did originally, as he is the
11 attorney. So we don't have that problem, but
12 he gave an opening statement that explained
13 what evidence you were going to produce.

14 So maybe that would help if you
15 know what evidence and you're acting as
16 though, you know, like the attorney, the
17 representative.

18 MR. BELMONTE: Right, so on the
19 evening of October 4th last year, was a
20 Thursday night.

21 CHAIRPERSON MILLER: It sounds
22 like you're presenting testimony.

1 MR. BELMONTE: Okay.

2 CHAIRPERSON MILLER: You can do
3 that.

4 MR. BELMONTE: So we should be
5 explaining why we chose to come to a hearing
6 and not just pay the fine.

7 CHAIRPERSON MILLER: Okay.

8 MR. BELMONTE: Because we wanted,
9 I guess, to dispute the citation because it
10 didn't happen on that evening.

11 The investigator came back the
12 next day, gave the violation to another ABC
13 manager in Happy Hour. The ABC, not manager,
14 not on duty at 11 p.m. the night before.

15 The investigator Mr. Lawson was
16 very cordial and we explained to him, you
17 know, why we weren't there. It's a little bit
18 different than what he just testified to. And
19 we'd like to explain that as well.

20 And then, you know, explain that,
21 you know, we've been there for, you know, 20
22 years. I've been the ABC manager there, and

1 dealt with a lot of investigator. I have a
2 really clean track record, and just kind of
3 wanted to stand up and say, this is a little
4 bit of mis-communication, a little bit of a
5 misunderstanding. And you know, just kind of
6 move forward from there. And that's pretty
7 much it.

8 CHAIRPERSON MILLER: Okay.

9 MEMBER ALBERTI: So I'm a little
10 confused, was that testimony or was that a
11 opening directive.

12 MR. BELMONTE: That was my
13 statement.

14 CHAIRPERSON MILLER: Okay.

15 MR. BELMONTE: I don't know
16 exactly how to do those, because I don't do
17 them everyday.

18 MEMBER ALBERTI: No, that's okay.
19 I just want to make sure I'm clear as I
20 understand what I hearing.

21 MR. BELMONTE: Now I get to
22 testify?

1 CHAIRPERSON MILLER: Yes.

2 MR. BELMONTE: Okay.

3 CHAIRPERSON MILLER: Okay. Would
4 you like, maybe we should, people are very
5 confused about this.

6 MEMBER ALBERTI: I'm confused, I
7 thought you said that was his testimony.

8 CHAIRPERSON MILLER: That was his
9 statement.

10 MR. BELMONTE: That was my opening
11 statement. I answered that question.

12 MEMBER ALBERTI: That was your
13 statement, all right.

14 CHAIRPERSON MILLER: What, do you
15 mind taking the stand over there? Just so we
16 have, okay.

17 MEMBER ALBERTI: I'm totally
18 confused.

19 MR. BELMONTE: I apologize for the
20 confusion. I'm, you know, not here everyday
21 making opening statements.

22 CHAIRPERSON MILLER: Right.

1 That's fine.

2 MEMBER ALBERTI: It's not your
3 fault, it's not your fault.

4 CHAIRPERSON MILLER: It's fine.
5 Just go right ahead.

6 MR. BELMONTE: So just to sort of
7 explain the situation from what I experienced
8 and witnessed that evening.

9 The investigator is correct that
10 about 20 til, quarter til 11 p.m. that night,
11 on Thursday night October 4th. I was working
12 that night, it was a particularly slow night.
13 And I left to go to 18th and Columbia Road,
14 one block away to pick up food at Mintwood
15 Place.

16 And Geneva called me and said the
17 ABC officer is here, you need to come up. And
18 I said okay, no problem.

19 I got on my bicycle and rode up to
20 Chief Ike's Mambo Room which is about 400
21 yards from Mintwood Place at 18th and
22 Columbia.

1 I was there in less than five
2 minutes. He must have had been there for five
3 or ten minutes before the phone call was made,
4 or something like that. But as I rode up I
5 saw him get in his car and his car driving
6 away.

7 So I came into the establishment,
8 and then the other ABC manager, Mike Ryan, was
9 also called. Who he was the person that was
10 doing his laundry. And he had come up. And
11 when we waited for, you know, half an hour.
12 Figuring the investigator would come back.

13 He came back, and explained to us
14 that, you know, we need to be there, and we
15 said, okay, no problem really sorry.

16 And it had been explained to me in
17 my 18 years of being there, as general manager
18 and ABC manager, this has happened, you know,
19 probably once or two other times and it was
20 always explained to me that, or I was
21 operating under the presumption that, you
22 know, I could go out to go grab some dinner

1 and come back in 20 minutes or half an hour,
2 like I can get a break. And if that's untrue,
3 then that's untrue and we'll operate
4 differently going forward.

5 But that evening Mr. Lawson did
6 not, he said, I'm not going to give you a
7 violation for this, you just need to sign for
8 this paperwork for the extended holiday hours.
9 And I said, okay, no problem. And I got the
10 paperwork and he left cordially and everything
11 was sort of okay.

12 And then the next day at Happy
13 Hour, which was Friday afternoon, probably
14 sometime between 5:00 and 7 o'clock, he came
15 back, and asked the bartender for the ABC
16 manager. She was the ABC manager, she
17 provided him with her license and then he gave
18 her the violation and made her sign for it for
19 the evening before.

20 So that was the mis-communication
21 that we wanted to come explain.

22 That the night before he had said,

1 I'm not going to violate for this tonight,
2 since you guys got here so quickly, whatever.
3 And then he came back the next day and gave
4 the violation.

5 And so it was a \$250 citation that
6 he had given to Harley Kramer the next day,
7 she was the person who signed for the
8 violation from the evening before, even though
9 she wasn't the person there.

10 So we sort of were like well, why
11 did we get it the next day? Did he have a bad
12 night, or, was he just, so we just kind of
13 wanted to come and explain that.

14 So the argument isn't that, he is
15 correct, that when he walked in, neither of us
16 were there. But in five minutes I will
17 testify that I was there and he was getting in
18 his car leaving to go to his other accounts.

19 He came back in 30 minutes just
20 like he said. And we signed for the paperwork
21 and he did not give us a violation.
22 Everything was very cordial, and then he came

1 back the next day and gave the violation to
2 another person, and had them sign for it.

3 And that was the only mis-
4 communication and dispute that we had there.
5 I mean, like I've said for the 18 years that
6 I've been there as general manager, I don't
7 have a violation on my hands and Al doesn't
8 have anything on his and we want to keep it
9 clean.

10 CHAIRPERSON MILLER: Thank you.
11 No, stay, stay for questions.

12 Mr. Stern, do you have any
13 questions?

14 MR. STERN: No.

15 CHAIRPERSON MILLER: Okay. Board
16 members?

17 MEMBER ALBERTI: I do.

18 CHAIRPERSON MILLER: Okay.

19 MEMBER ALBERTI: Sir, your name
20 again, I'm sorry.

21 MR. BELMONTE: My name is Robert
22 Belmonte.

1 MEMBER ALBERTI: Again?

2 MR. BELMONTE: Robert Belmonte.

3 MEMBER ALBERTI: Belmonte?

4 MR. BELMONTE: Belmonte, B-E-L-M-
5 O-N-T-E.

6 MEMBER ALBERTI: Oh, Belmonte.

7 MR. BELMONTE: Yes, like Delmonte
8 vegetables, but with a B. And no Capital L.

9 MEMBER ALBERTI: I'm sorry for
10 that. Mr. Belmonte, who was the ABC manager
11 on duty that evening?

12 MR. BELMONTE: It was between Mike
13 Ryan and myself. We share duties there, a
14 lot. And it was a particularly slow evening.

15 MEMBER ALBERTI: Wait, wait, let
16 me understand this. So were both of you
17 supposed to be there that evening?

18 MR. BELMONTE: One of us was
19 supposed to be there that evening.

20 MEMBER ALBERTI: Which one?

21 MR. BELMONTE: Well myself, more
22 importantly than him. But he also doesn't

1 work there anymore. He got promoted to being
2 a store manager of Chipotle.

3 MEMBER ALBERTI: All right. All
4 right.

5 MR. BELMONTE: So I would I take -
6 -

7 MEMBER ALBERTI: Your
8 understanding, who were the ABC managers that
9 were supposed to be there that evening?

10 MR. BELMONTE: I was the person in
11 charge and responsible.

12 MEMBER ALBERTI: Did he work that
13 evening?

14 MR. BELMONTE: He worked earlier
15 that evening, right.

16 MEMBER ALBERTI: You heard the
17 investigator testify that Geneva, I'm not sure
18 if that's her first name or last name. But
19 somebody named Geneva said she would call
20 Michael Ryan.

21 MR. BELMONTE: But she called me.

22 MEMBER ALBERTI: But why would she

1 tell him that she would call Michael Ryan?

2 MR. BELMONTE: He's wrong. He
3 just looked at the name that he showed him on
4 the piece of paper, he did not know a name
5 until that person showed him a name that said
6 Mike Ryan on it. Because Mike Ryan was the
7 one that signed for his paperwork.

8 MEMBER ALBERTI: So who called Mr.
9 Ryan?

10 MR. BELMONTE: Me.

11 MEMBER ALBERTI: After you --

12 MR. BELMONTE: Because he was
13 actually just three doors down. I said Mike,
14 get up there. And he went up there and I went
15 up there and we both walked in at the same
16 time and the investigator was in his car
17 driving away.

18 MEMBER ALBERTI: So he was
19 available in your absence right?

20 MR. BELMONTE: Yes.

21 MEMBER ALBERTI: But you hadn't
22 made arrangements for him to be there in your

1 absence?

2 MR. BELMONTE: I did not.

3 Correct.

4 MR. BELMONTE: I have no further
5 questions.

6 CHAIRPERSON MILLER: Other? So
7 you've been an ABC manager for 18 years?

8 MR. BELMONTE: 1997.

9 CHAIRPERSON MILLER: Since 1997
10 and you, is it your understanding that a
11 bartender could be selling drinks without an
12 ABC manager being there?

13 MR. BELMONTE: No, I just, not at
14 all. I know there needs to be an ABC manager
15 on premises. I know that. Yes, I do know
16 that.

17 CHAIRPERSON MILLER: So how long
18 are your shifts?

19 MR. BELMONTE: Well, sometimes
20 they're 12 hours, sometimes they're eight
21 hours, you know. Sometimes they're six hours
22 each. You know, like I said, Mike was working

1 early that night, and then got off. And I
2 came in at some point in the early evening,
3 probably 8:00 p.m. or 7:30.

4 CHAIRPERSON MILLER: So what's the
5 practice if you need to take a break or
6 something? Do you not sell during that period
7 that you're not there in general?

8 MR. BELMONTE: No, normally I, I
9 think normally like 99.9 percent of the time,
10 like there's no issue, there's no break,
11 there's no anything.

12 I mean, we've got a corner store
13 next door, that I go get a banana and muffin
14 if I need to get it, which is less than six
15 steps away. You know, from our establishment,
16 it is touching our establishment.

17 That particular evening, it was,
18 you know, it was really slow in the
19 establishment. It was about six customers
20 when I left and three when I came back. And,
21 you know, he just happened, I was less than
22 half an hour. I mean I went to place an order

1 for food, and didn't even get my food. I left
2 the order and came up and left my friend to
3 get my food for me.

4 So it was just one of those things
5 where it's perfect storm of, you know, things
6 happening at the same time. You know that's
7 all. And there's really, I mean, nothing else
8 I can tell you about it.

9 I just wanted to clarify that the
10 time-frames and what person was doing their
11 laundry or not. You know.

12 CHAIRPERSON MILLER: Okay.

13 MR. BELMONTE: Yes.

14 CHAIRPERSON MILLER: Okay. Yes,
15 okay, I felt, you know, the incident sounds
16 pretty straightforward. But, you know, I'm
17 just wondering, you know, you could have
18 somebody else come apply to be an ABC manager.
19 So having somebody step out.

20 MR. BELMONTE: Geneva actually has
21 had hers before it just has expired.

22 CHAIRPERSON MILLER: Okay.

1 MR. BELMONTE: And she, you know,
2 just didn't have it that evening and needed to
3 call me, and so, yes. But in any case, we
4 have four other people besides myself, that do
5 have their licenses.

6 Like when he came back the next
7 day at Happy Hour, the barmaid, bartender she
8 had her license with her, that night, you
9 know, that day.

10 But the discrepancy for us and the
11 reason why, I mean, because I can tell you
12 that I wasn't, when he first walked in, I
13 wasn't there. I came back five minutes later
14 and I waited for him to get there in 30
15 minutes.

16 CHAIRPERSON MILLER: Okay.

17 MR. BELMONTE: But the discrepancy
18 was that I shook his hand, we talked, signed
19 for the paperwork. He said I'm not going to
20 violate you tonight, but, you know, keep this
21 under control. And I said, hey, no problem,
22 thank you very much.

1 Then he came back the next day and
2 gave the violation to somebody else for the
3 night before.

4 CHAIRPERSON MILLER: He did say
5 that?

6 MR. BELMONTE: Yes.

7 CHAIRPERSON MILLER: It wasn't
8 just that you misunderstood because?

9 MR. BELMONTE: No, he did not
10 violate. He said I'm not going to violate you
11 tonight, just keep this under control. And I
12 said no problem. And then he came back the
13 next day. So, this was the only reason why we
14 choose to come today.

15 CHAIRPERSON MILLER: Okay. All
16 right.

17 MEMBER ALBERTI: I have a
18 question.

19 CHAIRPERSON MILLER: Yes. Mr.
20 Alberti?

21 MEMBER ALBERTI: Something struck
22 me, Mr. Belmonte. You said something about

1 another violation that evening?

2 MR. BELMONTE: No, no other
3 violations.

4 MEMBER ALBERTI: Like operating,
5 something about holiday hours or something?

6 MR. BELMONTE: He was coming to
7 drop off paperwork about the extended holiday
8 hours for the next year.

9 MEMBER ALBERTI: Oh, okay. He had
10 information for you. I just wanted to make
11 sure I wasn't misunderstanding.

12 MR. BELMONTE: That was his
13 mission, which he explained earlier as to why
14 he came in in the first place.

15 MEMBER ALBERTI: But you cleared
16 that up, thank you.

17 CHAIRPERSON MILLER: Okay.
18 Others? Mr. Stern, any questions about this?

19 MR. STERN: No, no other
20 questions.

21 CHAIRPERSON MILLER: Okay. Thank
22 you.

1 MR. STERN: In closing, --

2 CHAIRPERSON MILLER: Wait, we need
3 to make sure that --

4 MR. STERN: Oh, I'm sorry.

5 CHAIRPERSON MILLER: Are you
6 finished with your case, presenting it?

7 MR. BELMONTE: Yes, ma'am.

8 CHAIRPERSON MILLER: Okay. All
9 right so closing, thank you.

10 MR. JIRIKOWIC: May I say
11 something?

12 CHAIRPERSON MILLER: Yes. Do you
13 want to say something, I could put you under
14 oath. Okay?

15 MR. JIRIKOWIC: Yes.

16 CHAIRPERSON MILLER: You can take
17 the stand. So start up with your name again.

18 MR. JIRIKOWIC: Okay. Hi, my name
19 is Allan Jirikowic. I've held an ABC managers
20 license and owners license in the city since
21 1977. The reason we're here is that we feel
22 that what happened that night was unfair.

1 That if we were in violation or he wanted, we
2 should know that night. In which case we
3 would have had a different approach to this.

4 But Bob has been known to take a
5 two or three minute break if he's on duty just
6 to step out. But he's always within 50 yards
7 of the establishment. And so it seemed to me
8 very inconsistent with ABRA that we would get
9 a violation for that.

10 Since this has happened before
11 when an inspector came by maybe once or twice.
12 And the manager came in a minute or two later.
13 And there was no problem.

14 And then to get the infraction the
15 next day was something that we think is, well,
16 just wrong, just wrong. So we go to great
17 strides to comply with regulations, especially
18 with underage drinking and the other, you
19 know, what we're suppose to do. We have clean
20 hands and we're just here to present our
21 righteous case.

22 CHAIRPERSON MILLER: Okay. Mr.

1 Stern do you have any questions?

2 MR. STERN: No questions.

3 CHAIRPERSON MILLER: Board
4 members. Okay. Thank you.

5 Now that completes your case,
6 thank you. All right we can take closing now.

7 MR. STERN: The Board you may have
8 noted that I didn't ask any questions. And
9 that was because on the essential elements
10 there was no disagreement.

11 The fact of the matter is the only
12 thing that was truly relevant to these is
13 whether or not when the investigator came in,
14 and while there was beer and, excuse me,
15 alcohol being served, in this case it was
16 beer. The establishment had an ABC manager
17 and the establishment said they didn't. So I
18 didn't feel it was necessary to get into
19 asides.

20 However, as part of the closing
21 arguments I would say, tell the Board that it
22 is not unusual I find for establishments to

1 hear what they want to hear.

2 Investigators virtually always
3 come back and tell the establishment, or
4 inform the establishment of a violation and
5 then deliver a citation on another date.
6 That's their usual procedure I have found.

7 It's not quite usual that
8 establishments will think they're off the
9 hook, because they didn't get a citation the
10 first day. It's really not relevant to the
11 offense. But it may explain some of the
12 feelings that the establishment has about
13 being persecuted.

14 The minor issues aside, what
15 happened on this date was very straight
16 forward. You know, rather than asking the
17 bartender to go get an order of food. Or
18 asking a waitress to go get an order of food.

19 Or asking someone who doesn't have
20 the responsibility to be there at all times
21 when alcohol was being served to get food.
22 The manager thought it's not very busy, I'll

1 just duck out for a little while.

2 Unfortunately for him, when he
3 ducked out happened to be the time when the
4 investigator was stopping by. And he got
5 caught.

6 He's probably done it a hundred
7 times before and not got caught. But it's
8 against the law. He should never do it again.

9 And because it's against the law
10 and he should never do it again, the Board
11 should find the establishment responsible and
12 impose a fine of \$500 for a secondary
13 violation.

14 CHAIRPERSON MILLER: I'm sorry.
15 Your voice dropped at the end. You said \$500?

16 MR. STERN: \$500.

17 CHAIRPERSON MILLER: Okay. Okay,
18 do you want to make a closing argument?

19 MR. BELMONTE: The citation that
20 Harley Kramer signed for the day after October
21 5th was for \$250. Not \$500.

22 MR. STERN: If I may, just to

1 maybe clarify my position. Only for the
2 benefit of the, I know the Board understands
3 this already, but only for the benefit of the
4 respondent. The range of the citation fine is
5 from \$250 to \$500. ABRA accepts \$250 if you
6 pay it right away. But he didn't, and that's
7 therefore the range of \$250 to \$500 still
8 stands.

9 And we're asking for \$500 because
10 of the time and expense and the involvements
11 and lack of good credit you get for paying
12 right away.

13 MR. BELMONTE: I just wasn't clear
14 on that citation. To is if that was the case.

15 CHAIRPERSON MILLER: So it's not
16 clear to you that if you didn't pay the fine
17 of \$250 you'd face a the potential fine of
18 \$500?

19 MR. BELMONTE: That's why we chose
20 to come, yes. I think if that was the case,
21 if we had known that, or if I'd known that, we
22 would probably wouldn't have chosen to come

1 here today.

2 MEMBER ALBERTI: Madam Chair, are
3 we taking testimony now, or is this off, not
4 sworn testimony?

5 MR. STERN: I think it just goes
6 to penalty.

7 MEMBER ALBERTI: All right, thank
8 you.

9 CHAIRPERSON MILLER: Just penalty,
10 the attorney was addressing the penalty.

11 MEMBER ALBERTI: Thank you.

12 CHAIRPERSON MILLER: I think
13 that's important to get on the record.

14 MR. BELMONTE: Thank you.

15 CHAIRPERSON MILLER: Actually, Mr.
16 Stern kind of like, interjected, I think, I
17 didn't know if you were finished or not, with
18 your closing?

19 MR. BELMONTE: Yes. I was.

20 CHAIRPERSON MILLER: He didn't
21 then, you were done. Okay.

22 MR. STERN: I'm sorry, he sounded

1 as though he was.

2 CHAIRPERSON MILLER: Yes, I guess,
3 okay.

4 MR. BELMONTE: I was just trying
5 to make it clear that we, if it was, you know,
6 we understood \$250 and didn't know the range.

7 CHAIRPERSON MILLER: Right.

8 MR. BELMONTE: And pay right away.
9 And I think that would have changed our view
10 on how to deal with this situation.

11 MR. JIRIKOWIC: And in view of the
12 fact that this has happened before. And that,
13 I mean, there was precedents that when an
14 investigator comes in.

15 CHAIRPERSON MILLER: Okay, that
16 goes beyond.

17 MR. JIRIKOWIC: Okay.

18 CHAIRPERSON MILLER: The penalty
19 discussion. Okay.

20 MEMBER ALBERTI: May I ask Mr.
21 Stern a question, I'm sorry, Mr. Stern.

22 MR. STERN: You got it.

1 MEMBER ALBERTI: Have you have
2 discussions with them before of the status
3 hearing?

4 MR. STERN: We did have some
5 discussions. At that time, it was not the
6 \$250.

7 MEMBER ALBERTI: Did you discuss
8 fine range at that time?

9 MR. STERN: We did, and it wasn't
10 \$250 and it wasn't \$500, whatever.

11 MEMBER ALBERTI: I know, I
12 understand. But you did, I just want to know.
13 I don't want to know the details, because I
14 can't. But you did discuss the fine range at
15 that time?

16 MR. STERN: Yes, we did.

17 MEMBER ALBERTI: Thank you.

18 CHAIRPERSON MILLER: Okay, so you
19 look perplexed so I think Mr. Alberti's
20 inquiry goes to whether or not at the, what,
21 status you were informed about the range and
22 then decided to go forward to the hearing

1 anyway.

2 MR. BELMONTE: I wasn't at the
3 status hearing.

4 CHAIRPERSON MILLER: Oh.

5 MEMBER ALBERTI: But he's the
6 licensee. And you're pointing to Mr. --

7 MR. BELMONTE: I suppose, you were
8 at the status hearing?

9 MEMBER ALBERTI: Jirikowic?

10 MR. BELMONTE: Yes.

11 MEMBER ALBERTI: And that's the
12 licensee?

13 MR. JIRIKOWIC: But I thought, I
14 mean, the impression I got is that, there was
15 not a hearing, we wanted to present our side
16 of the story. Our side of the case, because
17 we think that it was wrong that we be given an
18 infraction a day later. Especially after we
19 were told we didn't receive one.

20 And after we've had such a clean
21 record on doing this thing. That place has
22 been there for 22 years. And I've never had

1 an infraction about a manager not being there.

2 CHAIRPERSON MILLER: Okay. All
3 right.

4 MR. STERN: That was exactly my
5 understanding of the discussion as well.

6 CHAIRPERSON MILLER: Okay. All
7 right, I think we've probably heard what
8 everyone wanted to say on penalty.

9 It just means even though Mr.
10 Stern is recommending that, that does not mean
11 that the Board can't consider, the Board can
12 consider the range, \$250 to \$500. If it
13 finds, you know, you are liable and then, but
14 that is his recommendation, okay?

15 All right, I'm going to close the
16 record then. We've heard all the testimony
17 and evidence.

18 My last question goes to whether
19 the parties want to file written proposed
20 findings of fact and conclusions of law. Or
21 waive their right to do so?

22 MR. STERN: The District would

1 waive.

2 CHAIRPERSON MILLER: You
3 understand it? Okay.

4 Parties have a right which very
5 few invoke, but some do, and you can. But it
6 would be to read the transcript when it's
7 ready in a couple weeks.

8 And then file something in writing
9 for the Board, based on the evidence in the
10 record and the transcript saying this is what
11 you should find as a fact for us. And then
12 draw a legal conclusions based on those facts
13 in your favor.

14 It's like a lawyer doing a brief
15 after the fact.

16 MR. BELMONTE: We waive that.

17 CHAIRPERSON MILLER: Okay.

18 MR. JIRIKOWIC: No we want to do
19 that.

20 MR. BELMONTE: No, no. We don't.

21 MR. JIRIKOWIC: We can just hear
22 her out. Do you want to explain to him?

1 CHAIRPERSON MILLER: Do you want
2 me to explain it further?

3 MR. JIRIKOWIC: Yes.

4 CHAIRPERSON MILLER: Okay. It's
5 like what a lawyer would do. But most lawyers
6 are not even choosing to do it in these cases.
7 But you can do it if you choose, it's a right.

8 Basically we have a court
9 reporter. And a transcript is going to be
10 produced which represents everything that's
11 been said today. You know, it's a transcript.
12 Okay and whatever other evidence is in the
13 record, like the case report.

14 You could then, or have an
15 attorney, pull from that record the facts that
16 you want the Board to find in your favor,
17 that's in the record. And then make an
18 argument for conclusions of law, based on
19 those facts.

20 MR. BELMONTE: We waive it.

21 CHAIRPERSON MILLER: Okay.

22 MR. STERN: Let me also explain

1 that the Board doesn't have to accept the
2 facts and conclusions.

3 MR. BELMONTE: Okay.

4 MR. STERN: It's only a
5 recommendation.

6 MR. BELMONTE: Okay, right. Let's
7 just waive.

8 CHAIRPERSON MILLER: Right.

9 MR. BELMONTE: We waive.

10 MR. JIRIKOWIC: I think, I trust
11 the Board knows all the pertinent facts of
12 truth and relevance.

13 MEMBER SILVERSTEIN: Al, this
14 would be, you're saying, you know, according
15 at Point 19 of the hearing, such and such was
16 stated and according to Title 25.823 of DC
17 Law, the DC Law states such and such. It's a
18 legal brief, and these are very, very seldom
19 used and they're very time consuming.

20 MR. BELMONTE: We waive.

21 CHAIRPERSON MILLER: Very.

22 MR. JIRIKOWIC: I don't want to

1 waste anymore of your time.

2 MEMBER SILVERSTEIN: Or yours.

3 CHAIRPERSON MILLER: Okay. So
4 record's closed and you should expect a
5 written order on this case within 90 days.

6 And that order, you could always
7 move for re-consideration on an order. But
8 that's when you will see our decision. We are
9 going to deliberate in a closed meeting and
10 I'm going to read instruction for that. Okay.

11 So thank you very much.

12 MR. STERN: Someday I'm writing a
13 book.

14 MEMBER ALBERTI: Pardon?

15 MR. STERN: Someday I'm going to
16 write a book.

17 MEMBER ALBERTI: Aren't we all.

18 CHAIRPERSON MILLER: Okay.

19 MR. STERN: Have a good afternoon.

20 CHAIRPERSON MILLER: Thank you.

21 MEMBER ALBERTI: Thank you, Mr.
22 Stern.

1 MR. STERN: Thank you.

2 CHAIRPERSON MILLER: Chairperson
3 of the Alcohol and Beverage Control Board for
4 the District of Columbia in accordance with
5 Section 405 of the open meeting Amendment Act
6 of 2010. And move that the ABC Board will
7 disclose meeting for the purpose of seeking
8 legal advice from our counsel in Case Number
9 12-CMP-00597, Chief Ike's Mambo Room.

10 Per Section 405B4 of the open
11 meetings Amendment Act of 2010 and
12 deliberating upon this case for the reasons
13 cited in Section 405B13 of the open meeting
14 Amendments Act of 2010. Is there a second?

15 MEMBER SILVERSTEIN: Second.

16 CHAIRPERSON MILLER: Mr.
17 Silverstein seconded the motion. I'll now
18 take a roll call vote. Mr. Brooks?

19 MR. BROOKS: I agree.

20 CHAIRPERSON MILLER: Mr. Alberti?

21 MEMBER ALBERTI: I agree.

22 CHAIRPERSON MILLER: Ms. Miller, agree. Mr.

1 Silverstein?

2 MEMBER SILVERSTEIN: I agree.

3 CHAIRPERSON MILLER: Motion passes by a vote
4 of 400. I hear by give notice that the ABC
5 Board will hold a closed meeting in the ABC
6 Board Conference room today. Or a subsequent
7 Wednesday pursuant to the opening Amendment
8 Act of 2010 and issue an order within 90 days.

9 Okay, that concludes our
10 business of this morning. And we will go into
11 recess.

12 (Whereupon, the hearing in the
13 above-entitled matter was concluded at 12:10
14 p.m.)

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