

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

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IN THE MATTER OF:

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:

Sammy, LLC

:

t/a D.C. Mini Supermarket

:

1828 1st Street, NW

: Show Cause

Retailer B

: Hearing

License No. 77803

:

Case No. 13-CMP-00111

:

ANC 5E

:

Failed to Post ABC License;

:

No ABC Manager on Duty

:

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AUGUST 14, 2013

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

Miller, Chairperson, presiding.

PRESENT

RUTHANNE MILLER, Chairperson

NICK ALBERTI, Member

DONALD BROOKS, Member

HERMAN JONES, Member

MIKE SILVERSTEIN, Member

ALSO PRESENT

CHRISTINE GEPHARDT, OAG

EARL JONES, ABRA

T-A-B-L-E O-F C-O-N-T-E-N-T-S

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

2 12:37 p.m.

3 CHAIRPERSON MILLER: Next case is
4 Case No. 13-CMP-00111, D.C. Mini Supermarket
5 located at 1828 1st Street, N.W., License
6 No. 77803 in ANC 5E.

7 Okay. When you're ready could
8 you please identify yourselves for the
9 record?

10 MS. GEPHARDT: Chrissy Gephardt
11 on behalf of the Office of the Attorney
12 General.

13 MR. ASHINE: Samuel Ashine, the
14 owner of D.C. Mini Market.

15 MEMBER SILVERSTEIN: I'm sorry?

16 MR. ASHINE: Samuel Ashine.

17 CHAIRPERSON MILLER: Okay. Are
18 you the owner?

19 MR. ASHINE: The owner, yes.

20 CHAIRPERSON MILLER: Okay. Good.
21 So this is a show cause hearing. Sorry to
22 keep you waiting.

1 Are there any preliminary matters
2 in this case?

3 MS. GEPHARDT: No, there are not.

4 CHAIRPERSON MILLER: Okay. Then
5 you will be proceeding to hearing, correct?

6 MS. GEPHARDT: Correct.

7 CHAIRPERSON MILLER: Okay. And,
8 Mr. Ashine, are you familiar with the
9 procedures for the hearing? For this
10 hearing do you know what happens?

11 MR. ASHINE: This is my first
12 time being in front of you, so --

13 CHAIRPERSON MILLER: Okay. So
14 this is a hearing in which anyone who
15 testifies will be under oath. There's a
16 transcript being made from the hearing. The
17 Government has the burden of proof.

18 What happens first is the
19 Government may do an opening statement
20 explaining what the case is about. And you
21 could do an opening statement, too, but you
22 don't have to. You know, then comes the

1 evidence.

2 Then the Government counsel will
3 call any witnesses and they will be put
4 under oath and she will question them. You
5 can cross-examine them based on their
6 testimony and the Board can ask questions.
7 And when she's finished with her case, then
8 you get the same opportunity. And then
9 you'll have closing arguments where you can
10 sum up the evidence in the record and argue
11 your case. Okay?

12 So it looks like you maybe both
13 counsel and witness, if I guess correctly.
14 So you probably will be put under oath, but
15 I'll wait until we get to your case. Any
16 questions right now?

17 MR. ASHINE: I'm sorry?

18 CHAIRPERSON MILLER: Do you have
19 any questions right now?

20 MR. ASHINE: No.

21 CHAIRPERSON MILLER: Okay. If
22 you have any as we go along, feel free to

1 ask me.

2 Okay. Ms. Gephardt?

3 MS. GEPHARDT: All right. Good
4 afternoon. This case, there are two
5 charges. The first charge is for failure to
6 post the ABRA license on the front door or
7 the exterior window of the establishment in
8 violation of D.C. Code 25-711. And the
9 second charge is for permitting the
10 establishment to operate without the
11 presence of an Board-approved manager in
12 violation of D.C. Code 25-701.

13 The facts will show that on
14 February 20th, 2013 an investigator from
15 ABRA visited the establishment to conduct a
16 regulatory inspection. Upon arrival the
17 investigator observed that there was no
18 lettering on the window, anywhere on the
19 windows or on the door of the establishment
20 showing the ABRA license information.

21 When the investigator entered the
22 establishment he asked to speak with the ABC

1 manager and a man identified himself as the
2 ABC manager, however upon further research
3 by the investigator that individual was
4 indeed not licensed as an ABC manager and
5 therefore he was cited for violation of the
6 window lettering and failure to have an ABC
7 manager on site. Thank you.

8 CHAIRPERSON MILLER: Thank you.
9 Okay. Mr. Ashine -- am I pronouncing it
10 right? Ashine?

11 MR. ASHINE: Yes.

12 CHAIRPERSON MILLER: Okay. Do
13 you have an opening statement?

14 MR. ASHINE: Yes. At the time of
15 the investigator, the manager license was on
16 duty, but his license was expired. He
17 didn't have one before and he actually have
18 a current manager. But at the time it was
19 expired.

20 CHAIRPERSON MILLER: Can I -- and
21 this is where it gets a little confusing
22 when, you know, it's the same person as the

1 witness probably. It sounds like what
 2 you're saying is going to be evidence and
 3 we should hear it from you as part of your
 4 testimony. You know what I'm saying?
 5 You're talking about the facts of the case.

6 MR. ASHINE: Yes.

7 CHAIRPERSON MILLER: I understand
 8 she was, too. She was doing a summary. But
 9 she's going to have a witness that says some
 10 of that. I just want to say to you you're
 11 the same person, so if what you're going to
 12 say you want to be evidence by the Board to
 13 consider, then you could just say that in
 14 testimony.

15 MR. ASHINE: Okay.

16 CHAIRPERSON MILLER: Do you have
 17 a statement, Mr. Silverstein?

18 MEMBER SILVERSTEIN: Real
 19 quickly.

20 CHAIRPERSON MILLER: Yes.

21 MEMBER SILVERSTEIN: In the
 22 opening statement you tell us what you're

1 going to tell us in the case you tell us,
2 and then the closing statement you tell us
3 what you told us. So you're just simply
4 saying we're going to tell you this and make
5 it quick so that way we know where we're
6 going.

7 CHAIRPERSON MILLER: It just
8 would be like a summary. Because I don't
9 want you to have repeat everything under
10 oath, because that's when it really matters.

11 MR. ASHINE: Yes.

12 CHAIRPERSON MILLER: Okay. Do
13 you want to skip it for now?

14 MR. ASHINE: Yes.

15 CHAIRPERSON MILLER: Okay. All
16 right. Do you want to call a witness?

17 MS. GEPHARDT: Yes, the
18 Government would like to call Earl Jones to
19 the stand, an ABRA investigator.

20 CHAIRPERSON MILLER: Good
21 afternoon. Do you swear to tell the truth,
22 the whole truth, nothing but the truth?

1 INVESTIGATOR JONES: Yes, ma'am.

2 CHAIRPERSON MILLER: Okay.

3 MS. GEPHARDT: Good afternoon,

4 Mr. Jones.

5 INVESTIGATOR JONES: Good

6 afternoon.

7 MS. GEPHARDT: Can you please
8 state your name and spell it for the record,
9 please?

10 INVESTIGATOR JONES: Earl Jones,
11 E-A-R-L. Last name Jones, J-O-N-E-S.

12 MS. GEPHARDT: And, Mr. Jones,
13 where do you work?

14 INVESTIGATOR JONES: I work for
15 the Alcohol Beverage Regulation
16 Administration.

17 MS. GEPHARDT: And what is your
18 title?

19 INVESTIGATOR JONES: An
20 investigator, compliance investigator.

21 MS. GEPHARDT: And what are your
22 job responsibilities as an investigator for

1 ABRA?

2 INVESTIGATOR JONES: I conduct
3 inspections and investigations of licensed
4 ABC establishments within the District of
5 Columbia.

6 MS. GEPHARDT: And how long have
7 you worked for ABRA?

8 INVESTIGATOR JONES: Since
9 September of 2009.

10 MS. GEPHARDT: Okay. And do you
11 recall the name of a licensee of D.C. Mini
12 Supermarket?

13 INVESTIGATOR JONES: Yes, ma'am.

14 MS. GEPHARDT: And did you have
15 occasion to visit the establishment on
16 Wednesday, February the 20th, 2013?

17 INVESTIGATOR JONES: Yes, ma'am.

18 MS. GEPHARDT: And was that at
19 approximately 9:20 p.m.?

20 INVESTIGATOR JONES: Yes, it was.

21 MS. GEPHARDT: Okay. What was
22 the purpose of your visit that evening?

1 INVESTIGATOR JONES: To conduct a
2 regulatory inspection.

3 MS. GEPHARDT: And what is a
4 regulatory inspection briefly?

5 INVESTIGATOR JONES: A regulatory
6 inspection is basically an inspection that
7 all licensed ABC establishments within the
8 District are required to have a minimum of
9 three a year and they basically -- what we
10 do is we go in and we check to make sure all
11 government documentation with reference to
12 our licenses, as well as DCRA, are current
13 and up to date.

14 MS. GEPHARDT: Okay. And when
15 you first arrived at D.C. Mini Supermarket,
16 what did you observe?

17 INVESTIGATOR JONES: Upon arrival
18 the first thing that I do is I look over the
19 front exterior of the establishment to see
20 if the establishment has the window
21 lettering.

22 MS. GEPHARDT: Okay. And in this

1 case did you observe window lettering?

2 INVESTIGATOR JONES: I did not
3 see window lettering, no.

4 MS. GEPHARDT: Okay. And when
5 you approach an establishment where
6 specifically are you looking to identify
7 window lettering? For example, windows,
8 doors? Can you explain?

9 INVESTIGATOR JONES: Can you
10 repeat that? I'm sorry.

11 MS. GEPHARDT: When you are
12 observing the outside of an establishment to
13 see if there's window lettering what are you
14 looking for? Are you look at the windows,
15 the door? Can you please explain?

16 INVESTIGATOR JONES: Yes. Per
17 the law the window lettering is supposed to
18 face the address side of the establishment.
19 So in this case the address is on 1st
20 Street, 1828. So the window lettering is
21 supposed to be on the 1st Street side of the
22 establishment on one of the exterior windows

1 or door. Again, if -- well, if the
2 establishment is on a corner and basically
3 crosses or is over the -- like a cross-
4 street, as long as it's posted, we don't
5 really bother it too much. But, you know,
6 as long as it is posted.

7 In this case, this supermarket is
8 almost a quarter into the block, so they
9 only are facing on the 1st Street side. So
10 basically it's only maybe two windows and
11 one door.

12 MS. GEPHARDT: Okay.

13 INVESTIGATOR JONES: So, and I
14 didn't observe any window lettering on any
15 of the exterior windows or door.

16 MS. GEPHARDT: Okay. And the
17 cross-street is Rhode Island Avenue, is that
18 correct?

19 INVESTIGATOR JONES: Yes, ma'am.

20 MS. GEPHARDT: And so you went
21 around to Rhode Island Avenue and did not
22 observe any window lettering?

1 INVESTIGATOR JONES: Well again,
2 the supermarket is a quarter into the block,
3 so it's not on the corner. What I was
4 explaining. Because if the establishment is
5 on the corner of the block, if it wraps
6 around the corner of the block, then we
7 would go around to, you know, the Rhode
8 Island side and look to see if there's
9 window lettering. In this case this
10 supermarket is into the block. So it's
11 almost in the middle of the block.

12 MS. GEPHARDT: Okay. And so
13 there was no lettering that you observed on
14 the windows, correct?

15 INVESTIGATOR JONES: No, ma'am.

16 MS. GEPHARDT: And how about the
17 door? Did you look to see if there was any
18 lettering on the door?

19 INVESTIGATOR JONES: Yes, I did
20 and I didn't see any.

21 MS. GEPHARDT: Okay. And are you
22 experienced with what window lettering would

1 look like in terms of like where it would be
2 and how it would look?

3 INVESTIGATOR JONES: Yes. We
4 actually have a temporary window lettering
5 form, a template that we -- when licensees
6 first come in for their licenses that we
7 issue out that they could fill out and affix
8 to the front window or door until they want
9 to get it somewhat permanently done, whether
10 it's etching or kind of stickers, that type
11 of thing lettering. Or a lot of the
12 establishments just leave the temp window
13 lettering up or have it printed out on
14 another sheet of paper to their fashion.

15 MS. GEPHARDT: When you observed
16 that there was no window lettering on the
17 exterior of the establishment, what did you
18 do next?

19 INVESTIGATOR JONES: I went
20 inside and I asked to speak with an ABC
21 manager or owner.

22 MS. GEPHARDT: And who did you

1 speak to?

2 INVESTIGATOR JONES: I spoke to a
3 gentleman that was behind -- the cashier
4 behind a -- I don't know if it was a
5 bulletproof, but it was a glass at the
6 counter.

7 MS. GEPHARDT: Okay. And what
8 did that individual tell you?

9 INVESTIGATOR JONES: He told me
10 that he was not the ABC manager or owner.
11 Well, he indicated that he was an ABC
12 manager, however, he didn't have his card.
13 But he said that the owner wasn't there. He
14 said that he was asked to watch the store
15 until he got back.

16 MS. GEPHARDT: Okay. And did you
17 catch the name of this individual by any
18 chance?

19 INVESTIGATOR JONES: I did get
20 the name of the individual. I don't want to
21 butcher his name.

22 MS. GEPHARDT: Okay.

1 INVESTIGATOR JONES: The last
2 name is B-E-K-E-L-E.

3 MS. GEPHARDT: Okay. Bekele --

4 INVESTIGATOR JONES: Yes, ma'am.

5 MS. GEPHARDT: -- perhaps?

6 INVESTIGATOR JONES: Yes, ma'am.

7 MS. GEPHARDT: Okay. And as you
8 just stated, I just want to clarify that he
9 said he was the ABC manager, correct?

10 INVESTIGATOR JONES: Yes, ma'am.

11 MS. GEPHARDT: Okay. And did you
12 ask to see his identification?

13 INVESTIGATOR JONES: Yes.

14 MS. GEPHARDT: And was he able to
15 show you any identification?

16 INVESTIGATOR JONES: He did, but
17 he couldn't produce a manager's license.

18 MS. GEPHARDT: Okay. While you
19 were there did you observe Mr. Bekele making
20 any transactions with customers?

21 INVESTIGATOR JONES: Yes, while I
22 was there there was a customer who came in

1 and purchased a can of Bud Light, a 24-ounce
2 can of Bud Light. He sold the alcohol to
3 the individual and I told him that he wasn't
4 able to sell alcohol due to not being able
5 to produce an ABC license.

6 MS. GEPHARDT: Did you tell Mr.
7 Bekele that it is mandatory for
8 establishments to have an on-site ABC
9 manager in order to sell alcoholic
10 beverages?

11 INVESTIGATOR JONES: Yes, ma'am.

12 MS. GEPHARDT: Okay. And what
13 was his response?

14 INVESTIGATOR JONES: He said that
15 he understood and that he would pass that
16 information onto the owner. He said again
17 that he was just asked to watch the store.

18 MS. GEPHARDT: Okay. And did you
19 ask him if there anyone else in the store
20 that was an ABC manager?

21 INVESTIGATOR JONES: Yes, and
22 there was no one else in the store.

1 MS. GEPHARDT: Okay. And after
2 that did you conduct any more of an
3 inspection or did you leave? What happened?

4 INVESTIGATOR JONES: I did
5 conduct the inspection, and during the
6 inspection I again advised him about not
7 selling alcohol due to not being able to
8 produce an ABC license, a manager's card, as
9 well as the owner not being present. And at
10 that time he again stated that he was just
11 there to watch the store. And I asked him
12 again was he an ABC manager and he stated he
13 had a card. I thought it was odd that if he
14 was an ABC manager why was he just asked to
15 watch the store? But that's just my
16 thinking.

17 MS. GEPHARDT: Yes. Did you do
18 any follow-up research after you left the
19 establishment as to whether this individual
20 was licensed as an ABC manager?

21 INVESTIGATOR JONES: I did come
22 back to the office and I reviewed the

1 records of D.C. Mini Supermarket and I could
2 not find anything with reference to that
3 individual being an ABC manager.

4 MS. GEPHARDT: Okay. All right.
5 Thank you very much.

6 INVESTIGATOR JONES: Yes, ma'am.

7 CHAIRPERSON MILLER: Mr. Ashine,
8 do you have any questions of Mr. Jones based
9 on his testimony?

10 MR. ASHINE: No, I do not
11 actually.

12 CHAIRPERSON MILLER: Okay. Do
13 Board Members?

14 (No audible response.)

15 CHAIRPERSON MILLER: No? Thank
16 you very much.

17 INVESTIGATOR JONES: Thank you,
18 ma'am.

19 CHAIRPERSON MILLER: Do you have
20 any other witnesses?

21 MS. GEPHARDT: No, I don't.

22 CHAIRPERSON MILLER: Okay. Any

1 documents you want to put in evidence?

2 MS. GEPHARDT: No documents,
3 thank you.

4 CHAIRPERSON MILLER: Okay. All
5 right. Mr. Ashine, do you want to testify?

6 MR. ASHINE: Yes.

7 CHAIRPERSON MILLER: Okay. Can
8 you go over there, if you don't mind?
9 Unless you need something there.

10 MR. ASHINE: My stuff.

11 CHAIRPERSON MILLER: Yes, you can
12 take whatever you need.

13 I'm going to swear you in. Do
14 you swear to tell the truth, the whole
15 truth, nothing but the truth?

16 MR. ASHINE: I do.

17 CHAIRPERSON MILLER: Okay. So
18 now is your opportunity to testify however
19 you might want to respond to the charges
20 that have been brought against you.

21 MR. ASHINE: I just have to
22 explain the whole situations --

1 CHAIRPERSON MILLER: Okay.

2 MR. ASHINE: -- of that
3 particular day. I was there.

4 CHAIRPERSON MILLER: Can you
5 speak up?

6 MR. ASHINE: Okay.

7 CHAIRPERSON MILLER: There's also
8 a microphone somewhere down there.

9 MR. ASHINE: Yes. Okay. I did
10 have a post for the license post. I just
11 notice that it was supposed to be on the 1st
12 Street side, but I did have this old sign
13 that is being posted by the window on the
14 inside, not on the 1st Street side of the
15 street, which I didn't really know. But it
16 was been posted there almost six, seven
17 years. You can tell. I took a picture of
18 it. I had it.

19 He probably just look at it at
20 the front side of the windows and the door.
21 But I did have it. There's a gate. There
22 is a bulletproof that I had it inside. So

1 right next to the door. It was like a small
2 door that I have in the store. This is what
3 I had it posted there for the while. It's
4 still there. But he missed this or he
5 probably didn't take this as a post because
6 he was maybe expecting to look at it from
7 outside. So that's number one concern.

8 And also as a manager license my
9 employee had a license. This is the old one
10 and this is the new one that he had. But at
11 time was expired. He didn't had it with
12 him. The reason why is expired and he
13 didn't renew it because of his immigration
14 status. I can show it to you.

15 MEMBER ALBERTI: No, I'm not
16 asking for it.

17 MR. ASHINE: So this is a current
18 one, which is -- I mean he had it. He have
19 it now and it is the old one. But at a time
20 he didn't have it with him. That's why he
21 didn't show it to him. But he didn't have
22 it with him at the time because it was

1 expired. But I do understand that even
2 though that's expired he might not supposed
3 to be selling. But when he was -- I was
4 there with him of all day long, but at the
5 time though he came to stop by to my store.
6 I told him to watch it over. In fact, I
7 wasn't even far from the area, but he didn't
8 call me because the conversation between
9 them didn't take any longer. So by the time
10 I get back, he told me that ABC man --
11 investigator was at the store and he told me
12 what happened.

13 But I did comply with all the
14 rule and regulation and have had this for
15 the past -- I got so many of this, you know,
16 complying with the rule and regulation with
17 ABRA.

18 MS. GEPHARDT: Objection. Those
19 are irrelevant to the facts of this case,
20 like congratulations stuff.

21 CHAIRPERSON MILLER: Well, I have
22 to see them. But I would tend to overrule

1 it because it goes to his history of
2 compliance perhaps.

3 MS. GEPHARDT: Okay.

4 MR. ASHINE: I also have a good
5 standing of --

6 CHAIRPERSON MILLER: Good
7 standing?

8 MR. ASHINE: -- establishment. I
9 mean I've been compliant with all the rule
10 and regulation. I did have the license, but
11 it is not posted in appropriate way. I just
12 noted that it was suppose on the 1st Street
13 side, which I didn't know that. I will do
14 it. Also that my employee had a manager
15 license, but expired. He did have a current
16 right now. So this is my argument for --
17 I'm done.

18 CHAIRPERSON MILLER: Okay. Do
19 you have questions, Ms. Gephardt?

20 MS. GEPHARDT: Yes. I'm sorry,
21 what is your name again?

22 MR. ASHINE: Samuel. Samuel

1 Ashine.

2 MS. GEPHARDT: Samuel? Okay.

3 Can you please explain again where that
4 piece of paper was posted? You say it was
5 posted --

6 MR. ASHINE: There is a --

7 MS. GEPHARDT: -- that night.

8 MR. ASHINE: Yes, two window and
9 the one door, as the investigator mention.
10 So soon as you get in the front door, on the
11 left side that's where cashiers are. Is
12 another door by the cashier. I posted it
13 right by the cashier door, which you get
14 into that small entrance, that I have taken
15 picture of that. This is the door.

16 MS. GEPHARDT: Would that sign be
17 visible from somebody coming through the
18 door?

19 MR. ASHINE: As soon as you get
20 in the front door there's a small another
21 door, glass door. Of course it's -- I
22 posted it toward the people, but have to go

1 inside in order to watch it, not from like
2 driving from the 1st Street side.

3 MS. GEPHARDT: Okay. And you say
4 that you had that sign up on the night of
5 February 20th, 2013.

6 MR. ASHINE: I had it like almost
7 seven years, since I had it. This is -- you
8 can even tell this is like how old this post
9 sign is.

10 MS. GEPHARDT: Okay. And the
11 picture that you showed with the sign up, is
12 that picture dated at all?

13 MR. ASHINE: No, it's not dated.

14 MS. GEPHARDT: So there's no way
15 to know when that was actually put up? That
16 could have been put up after February 20th?

17 MR. ASHINE: You can tell I
18 didn't posted this like a month ago or two
19 months ago. This is a ragged, like old sign
20 that has been posted there.

21 MS. GEPHARDT: Right, but that's
22 not -- that doesn't show any dates or --

1 MR. ASHINE: I don't think --

2 MS. GEPHARDT: -- there's like
3 any specific time of when this sign was
4 actually posted.

5 MR. ASHINE: I don't think --

6 MS. GEPHARDT: Is that correct?

7 MR. ASHINE: I don't think we
8 need to put a date on -- or isn't required
9 to put the date on this sign.

10 MS. GEPHARDT: Okay. My question
11 was just -- is you have proof that it was
12 actually posted on that evening and it
13 sounds like --

14 MR. ASHINE: The proof --

15 MS. GEPHARDT: -- that picture
16 doesn't show that.

17 MR. ASHINE: Again, the proof is
18 -- this is not something that I made up.
19 It's old. It's been posted. I have a
20 picture of it by the door, so that's the
21 only proof that I have.

22 MS. GEPHARDT: Okay. And you

1 testified that the individual who was
2 working that night, you said that he was ABC
3 manager, but his license had expired, is
4 that correct?

5 MR. ASHINE: Yes, he had a old
6 license, but it has expired. But he did
7 have it renewed. The reason why he didn't
8 -- there is a gap between these two is
9 because of his immigration status that I
10 have a paperwork from Immigration that he
11 was supposed to do some paperwork, you know.
12 Because he came to do license. They ask him
13 his paperwork, that green card, or the
14 permit. So he have to wait until
15 Immigration to approve it. So that's why
16 he --

17 MS. GEPHARDT: But the night that
18 Investigator Jones arrived at the
19 establishment, which was February the 20th,
20 2013, did that individual Mr. Bekele -- did
21 he have an active non-expired ABC manager's
22 license with him?

1 MR. ASHINE: No, it was expired
2 at that particular night.

3 MS. GEPHARDT: Okay.

4 MR. ASHINE: Yes.

5 MS. GEPHARDT: Thank you. That's
6 all I have.

7 CHAIRPERSON MILLER: Okay. Are
8 there Board questions?

9 MEMBER ALBERTI: Mr. Jones does.

10 CHAIRPERSON MILLER: Oh, Mr.
11 Jones?

12 MEMBER JONES: Thank you, Madam
13 Chair. Just to make sure I'm clear, so I
14 think I'm clear now, but the sign, the old
15 sign that you're holding up with the
16 information about the store that looks all
17 wrinkled and looks like something spilled on
18 it, that sign, was that posted somewhere on
19 the interior of your establishment?

20 MR. ASHINE: Yes.

21 MEMBER JONES: Yes?

22 MR. ASHINE: Yes.

1 MEMBER JONES: Okay. Do you
2 understand where it's supposed to be posted?

3 MR. ASHINE: No, I just notice
4 from investigator that he was expecting to
5 look at from the 1st Street side of the --
6 where the address is, which I didn't know
7 that before that.

8 MEMBER JONES: Okay. So prior to
9 the investigator informing you of that you
10 didn't realize you were in violation?

11 MR. ASHINE: I'm sorry?

12 MEMBER JONES: Prior to the
13 investigator informing you of it, it being
14 the violation, you didn't realize that you
15 were in violation by not having it posted --

16 MR. ASHINE: I didn't even know.
17 What I -- how I knew was I know I had to
18 post the license, but I don't know where.
19 That's why I put it -- if I put it by the
20 front door, it's paper, it might just easily
21 come back out. You know, people can just
22 scratch it off, you know? So that's why I

1 took maybe secured I put it from inside of
2 my cash register to see people can see it
3 from outside when it's outside from
4 interior, not from exterior.

5 MEMBER JONES: Right. So someone
6 has to come inside of your establishment --

7 MR. ASHINE: Yes.

8 MEMBER JONES: -- to then see --

9 MR. ASHINE: Yes.

10 MEMBER JONES: -- the window
11 lettering?

12 MR. ASHINE: Right.

13 MEMBER JONES: Okay. Just to
14 make sure I'm clear on the second issue, the
15 individual that you left --

16 MR. ASHINE: Yes.

17 MEMBER JONES: -- in charge of
18 your establishment did not have a valid ABC
19 manager's license on him at the time that
20 Investigator Jones came by to do the
21 regulatory inspection?

22 MR. ASHINE: Right, he had

1 expired one.

2 MEMBER JONES: He did not have a
3 valid --

4 MR. ASHINE: He didn't have the
5 valid one. He had expired -- he had it for
6 two years. It was expired a few months
7 behind because of -- he went -- he came to
8 renew. Because of his immigration status
9 that I had with me --

10 MEMBER JONES: Understood.

11 MR. ASHINE: -- he didn't renew
12 it.

13 MEMBER JONES: Were you aware of
14 the fact that it had expired?

15 MR. ASHINE: Yes.

16 MEMBER JONES: You were? So you
17 left him in charge of your establishment
18 knowing that his ABC manager's license had
19 expired at that time?

20 MR. ASHINE: Yes, I knew.

21 MEMBER JONES: You knew that?

22 MR. ASHINE: Yes.

1 MEMBER JONES: Okay. What is the
2 date of his new license? When was that new
3 one issued?

4 MR. ASHINE: July 1st.

5 MEMBER JONES: July 1st?

6 MR. ASHINE: Right.

7 MEMBER JONES: And when did the
8 old one expire?

9 MR. ASHINE: July 28th.

10 MEMBER JONES: So the old one
11 expired July 28th of what year?

12 MR. ASHINE: 2012.

13 MEMBER JONES: And the new one is
14 issued on what date?

15 MR. ASHINE: It doesn't say the
16 issue here. It doesn't have an issue date.

17 MEMBER JONES: Okay. If it
18 doesn't have an issue date on it, when did
19 he receive it, to your knowledge? When did
20 he become a valid licensed ABC manager?

21 MR. ASHINE: The monty of July.
22 Month of July.

1 MEMBER JONES: Month of July of
2 what year?

3 MR. ASHINE: 2013.

4 MEMBER JONES: Okay. So from
5 July 28th of 2012 to July of 2013 he was not
6 a licensed ABC manager, correct?

7 MR. ASHINE: He was not. So
8 that's why he was not working by himself.
9 I'm always there with him. So he just have
10 to help me when I needed him.

11 MEMBER JONES: And he's been
12 working at your establishment throughout
13 this entire period, correct?

14 MR. ASHINE: Not by himself.

15 MEMBER JONES: That's not what I
16 asked you. Has he been working at your
17 establishment from July 28th, 2012 to July
18 of 2013?

19 MR. ASHINE: Yes, he's a part-
20 time employee. He help me while I'm always
21 there. Yes, of course --

22 MEMBER JONES: Okay.

1 MR. ASHINE: -- he's still
2 current employ.

3 MEMBER JONES: All right. How is
4 it that he came to be alone on the night at
5 the -- or the day that the investigator came
6 by to conduct a regulatory inspection?

7 MR. ASHINE: I just have to
8 leave. It was about closing time. It was a
9 long day for me. We close at 10:00. I
10 think the investigator came around 9:00,
11 9:00-something. So I have to leave in then
12 about 30 minute or 45 minute earlier than
13 what I was supposed to close for the night.

14 MEMBER JONES: Okay. What other
15 employees do you have working for you?

16 MR. ASHINE: I have another one
17 more employee.

18 MEMBER JONES: One more employee?

19 MR. ASHINE: Right.

20 MEMBER JONES: Okay. What is the
21 shift schedule, if you will, for the two
22 employees that you have?

1 MR. ASHINE: It varies. They
2 both part-time.

3 MEMBER JONES: They're both part-
4 time?

5 MR. ASHINE: They're both part-
6 time.

7 MEMBER JONES: Are you the only
8 full-time?

9 MR. ASHINE: Yes.

10 MEMBER JONES: Okay. So you're
11 the full-time. You have two part-time?

12 MR. ASHINE: Right.

13 MEMBER JONES: And the other
14 individual -- excuse me, the two employees
15 that you have, they're currently both
16 licensed ABC managers?

17 MR. ASHINE: Currently, yes.

18 MEMBER JONES: Okay.

19 MR. ASHINE: Currently, yes.

20 MEMBER JONES: Thank you. Thank
21 you, Madam Chair.

22 CHAIRPERSON MILLER: Okay. Other

1 questions?

2 MEMBER ALBERTI: I have some
3 questions. Thank you, Mr. Jones. Covered a
4 lot of ground there.

5 But, Mr. Ashine -- and this may
6 have been covered and I missed it, Okay.
7 I'm in your store and I'm at the counter to
8 pay for something. Okay? Just imagine
9 that. Now where do you say that that sign
10 was posted?

11 MR. ASHINE: Where?

12 MEMBER ALBERTI: Yes, in
13 relationship to where I would be if I'm at
14 the counter to pay for something.

15 MR. ASHINE: If you're at the
16 counter, right in the front of you in the
17 counter.

18 MEMBER ALBERTI: Pardon?

19 MR. ASHINE: If you're at the
20 counter, right in the bottom of the door of
21 the counter. There is a counter window.

22 MEMBER ALBERTI: Yes.

1 MR. ASHINE: There is a door.

2 MEMBER ALBERTI: Yes.

3 MR. ASHINE: So right in the
4 bottom of that small door.

5 MEMBER ALBERTI: The bottom of
6 the small door?

7 MR. ASHINE: Yes, it's not in the
8 middle because in the middle --

9 MEMBER ALBERTI: The door, is it
10 a full-length door?

11 MR. ASHINE: A small piece of
12 wood, so you can -- it's not like a big
13 door.

14 MEMBER ALBERTI: Oh, it's a door
15 that --

16 MR. ASHINE: You can look through
17 to the cashier. Because right in the middle
18 there's a --

19 MEMBER ALBERTI: Okay. So it's a
20 door that someone would walk through to the
21 cashier?

22 MR. ASHINE: Correct.

1 MEMBER ALBERTI: Now where on
2 that door would it be -- so and that's right
3 next to the cashier?

4 MR. ASHINE: Right next to the
5 main door.

6 MEMBER ALBERTI: Right. Wait,
7 wait, wait. So I'm standing at your
8 counter. The door into the cashier area --

9 MR. ASHINE: Facing to the --

10 MEMBER ALBERTI: -- is right next
11 to the -- where I would stand to pay, is
12 that correct?

13 MR. ASHINE: Yes, to the left.

14 MEMBER ALBERTI: Okay. So its'
15 right next door. Where on that door was
16 this posted?

17 MR. ASHINE: Again, this is a
18 small cashier window. There is a small
19 door.

20 MEMBER ALBERTI: Right, that
21 someone could pass through. Right. Could
22 walk through. It's a door that someone

1 could walk through.

2 MR. ASHINE: That's for employee
3 only.

4 MEMBER ALBERTI: Okay.

5 MR. ASHINE: And there is a big
6 door for the people come in.

7 MEMBER ALBERTI: Right. Okay.

8 MR. ASHINE: So it's posted on
9 that small door where the --

10 MEMBER ALBERTI: Where on that
11 door?

12 MR. ASHINE: To the left of the
13 counter.

14 MEMBER ALBERTI: Where? At the
15 very top? At the bottom? To the left of
16 the door? To the --

17 MR. ASHINE: The sign --

18 MEMBER ALBERTI: -- right-hand
19 edge of the door? To the left-hand edge of
20 the door?

21 MR. ASHINE: The sign?

22 MEMBER ALBERTI: Yes.

1 MR. ASHINE: Okay. On the middle
2 of it there is another sign says, you know,
3 we cannot serve intoxicated person. Right
4 in the middle. Right underneath of that is
5 -- this is where the sign is.

6 MEMBER ALBERTI: So where is that
7 sign that says you can't serve to
8 intoxicated people?

9 MR. ASHINE: Right in the middle.
10 I have a picture. Right in the middle of
11 the door.

12 MEMBER ALBERTI: In the middle?
13 So half way up? Sort of half way up the
14 door?

15 MR. ASHINE: This is right in the
16 middle. This is where the sign of --

17 MEMBER ALBERTI: Listen to me.
18 Half way up the door? Sort of about midway
19 up the door?

20 MR. ASHINE: Yes, right about in
21 the middle.

22 MEMBER ALBERTI: And it's posted

1 directly below that? Or where is it posted
2 in relationship to that pregnancy sign, or
3 not pregnancy, the sign that says you can't
4 serve people under 21?

5 MR. ASHINE: The one that can't
6 serve -- what says on the top, this sign is
7 in the bottom. So I don't know if I get --

8 MEMBER ALBERTI: But how many
9 feet above the floor?

10 MR. ASHINE: The floor has a
11 little step to the counter.

12 MEMBER ALBERTI: How many feet
13 above the bottom of the door?

14 MR. ASHINE: Ten feet? I don't
15 know. I can't guess.

16 MEMBER ALBERTI: Ten feet? How
17 many inches from the bottom of the door?

18 MR. ASHINE: I can't guess with
19 that, because there's just about one step of
20 -- you just get one step to go into the
21 counter. So right after that is the door
22 starts.

1 MEMBER ALBERTI: Okay.

2 MR. ASHINE: I can't explain.

3 MEMBER ALBERTI: In the middle of
4 the door, about half way up the door I have
5 a sign that says you can't serve anyone
6 under 21, is that correct?

7 MR. ASHINE: The sign right in
8 the middle. Right underneath.

9 MEMBER ALBERTI: Right in the
10 middle of the door? All right. How far
11 below that is the -- you say that the
12 lettering sign was posted?

13 MR. ASHINE: Almost on the bottom
14 of the door, because under the bottom of the
15 door also there's a stair. So this sign's
16 almost under -- almost the bottom of the
17 door.

18 MEMBER ALBERTI: Almost at the
19 bottom of the door?

20 MR. ASHINE: That's not quite in
21 the bottom.

22 MEMBER ALBERTI: And, well, no, I

1 mean isn't it curious that the -- never
2 mind. No further questions. Thank you.

3 CHAIRPERSON MILLER: Okay.
4 Others?

5 (No audible response.)

6 CHAIRPERSON MILLER: Mr. Ashine,
7 what's the connection between your
8 employee's immigration status and manager's
9 license?

10 MR. ASHINE: Cannot renew your
11 license unless you have a valid green card
12 or work permit to work in the United States.

13 CHAIRPERSON MILLER: How did he
14 get it originally though?

15 MR. ASHINE: You have to renew it
16 every two years, or every certain years.

17 CHAIRPERSON MILLER: Right. I
18 hear you. But do you have to have that
19 valid green card?

20 MR. ASHINE: Before you get a
21 green card there is a work permit that gets.
22 I don't know what kind is the status they

1 have. Every two years they have to renew
2 until they become a permanent resident. I
3 mean this explain --

4 CHAIRPERSON MILLER: That
5 explains it?

6 MR. ASHINE: -- what he's
7 supposed to do. This is immigration paper
8 that he was supposed to do it. So he did
9 pay for. Right now he just paid on March
10 20, 2013 for his permanent, \$985 for his
11 permanent green card. He hasn't got it yet.
12 It takes some time, the whole process.

13 CHAIRPERSON MILLER: Okay. I
14 wanted to ask you also, because I know
15 you're not an attorney and you haven't done
16 these proceedings before -- if you want the
17 Board to consider any of those documents,
18 you need to ask that they can be marked as
19 evidence and as exhibits and put into the
20 record. And if you do, you need to also
21 show it to Ms. Gephardt. Do you want to put
22 any of those into evidence for us to

1 consider? You've been kind of holding them
2 up, and we can only see so far.

3 MR. ASHINE: I can submit it, but
4 this is his. I don't have a --

5 CHAIRPERSON MILLER: It's up to
6 you.

7 MR. ASHINE: I don't have a copy
8 of his green card status, but I wouldn't
9 mind giving all this and the rest of the
10 stuff. Yes.

11 CHAIRPERSON MILLER: Okay. I'm
12 not asking for it per se.

13 MR. ASHINE: Yes, I will put them
14 in.

15 CHAIRPERSON MILLER: It's your
16 case.

17 MR. ASHINE: Yes.

18 CHAIRPERSON MILLER: I think we
19 can assist with making a copy of your
20 originals.

21 MR. ASHINE: Yes.

22 CHAIRPERSON MILLER: Okay. So

1 what I would ask you to do is if you want to
2 do that now; we might as well, one-by-one
3 show it to Ms. Gephardt and see if she has
4 any objection, and tell us what it is.

5 MS. GEPHARDT: I would object to
6 the green card information, specifically
7 because what's at issue here is that there
8 was no ABC manager on site and regardless of
9 whether this person had an expired green
10 card or not -- or excuse me, expired ABRA
11 license doesn't necessarily matter. It just
12 matters that he didn't have somebody that
13 was an ABC manager on site.

14 CHAIRPERSON MILLER: I would
15 agree with that, unless you have something
16 else you want to say about that. I think
17 there are privacy concerns there as well, so
18 I would sustain that objection. So not
19 including the application form, or whatever
20 that was.

21 MR. ASHINE: Okay.

22 CHAIRPERSON MILLER: I have one

1 question while she's looking, and that is
2 has your establishment been visited by ABRA
3 investigators before?

4 MR. ASHINE: Yes, it has been.

5 CHAIRPERSON MILLER: And has
6 anyone brought up the posting before, the
7 lettering?

8 MR. ASHINE: No.

9 CHAIRPERSON MILLER: Okay.

10 MR. ASHINE: That's why even I
11 got all this certificates, because they've
12 been there many times. Like serving
13 underage people, I've never got any this
14 situation before.

15 CHAIRPERSON MILLER: Okay.

16 MR. ASHINE: Never get issued any
17 ticket or anything.

18 CHAIRPERSON MILLER: And it's in
19 the same place for seven years, you said?

20 MR. ASHINE: Right.

21 CHAIRPERSON MILLER: Okay. Ms.
22 Gephardt?

1 MS. GEPHARDT: I mean I would
2 just renew my objection that these
3 congratulatory things don't have anything to
4 do with not having window lettering or not
5 having an ABC manager on site.

6 CHAIRPERSON MILLER: Okay. We've
7 dealt with that one already. Do you want to
8 -- oh, I don't have -- okay. We'll make
9 copies for you.

10 MR. ASHINE: Yes.

11 CHAIRPERSON MILLER: Our staff
12 isn't here right now, so I'll take it. Just
13 in case Board Members want to see any of
14 this before --

15 MEMBER ALBERTI: It would be
16 helpful to me --

17 CHAIRPERSON MILLER: Yes.

18 MEMBER ALBERTI: -- if we
19 described each item and gave it a number --

20 CHAIRPERSON MILLER: Yes,
21 exactly.

22 MEMBER ALBERTI: -- for the

1 record.

2 CHAIRPERSON MILLER: Exactly.

3 MEMBER ALBERTI: Okay.

4 CHAIRPERSON MILLER: I just got
5 it. I think that I'll do it rather than --

6 MEMBER ALBERTI: Okay.

7 CHAIRPERSON MILLER: If that's
8 okay? That's from your experience.

9 All right. So we have two
10 manager's licenses. I think we can combine
11 them as Exhibit 1. One is expired and one
12 is current of the employee who was on duty
13 when the investigator visited. The date of
14 issue. Okay. And that's Exhibit No. 1.

15 Exhibit No. 2 are certificates
16 for compliance checks and good standing.
17 There are one, two, three. I'm grouping
18 them together. So that's all right with
19 everyone?

20 Exhibit No. 3 is the sign that
21 was posted with the license number.

22 And Exhibit No. 4 is a photo of

1 the sign.

2 And Exhibit No. 5 is a photo of a
3 different sign on a door in the
4 establishment that says, "Notice: We do not
5 sell alcoholic beverages to anyone who is
6 already intoxicated."

7 Okay. Having seen this, this is
8 the -- on the document that says, "Notice:
9 We do not sell alcoholic beverages to anyone
10 who is already intoxicated," okay, it's
11 helpful for me to finally see. Is this the
12 door that you're talking about?

13 MR. ASHINE: That is the door.

14 CHAIRPERSON MILLER: And where on
15 the door then is the license?

16 MR. ASHINE: Is another picture.
17 That's it. Yes, that's the same door. I
18 probably didn't get the whole thing on the
19 one door.

20 CHAIRPERSON MILLER: The two
21 photos are on the same door?

22 MR. ASHINE: Yes, I probably

1 didn't take it the whole thing at once, but
2 that's the same door. You can see the sign
3 maybe, the little sign. that's the only
4 door that I have.

5 CHAIRPERSON MILLER: Okay. Let
6 me ask you again. This is the door?

7 MR. ASHINE: That's the door.

8 CHAIRPERSON MILLER: The license
9 is on that door, but we can't --

10 MR. ASHINE: The same door, yes.

11 CHAIRPERSON MILLER: -- see it in
12 the picture?

13 MR. ASHINE: I took it with my
14 phone, so I cannot get it the whole thing.

15 CHAIRPERSON MILLER: Is it below
16 this?

17 MR. ASHINE: Right below, yes.
18 Almost the bottom of that door. Because I
19 have to take it on two different picture.

20 MEMBER SILVERSTEIN: Below there
21 I guess is what he's saying.

22 CHAIRPERSON MILLER: Okay.

1 Somewhere below the bottom latch here?

2 MR. ASHINE: Yes.

3 CHAIRPERSON MILLER: Okay.

4 Anybody else want to see this?

5 (No audible response.)

6 CHAIRPERSON MILLER: Okay. All
7 right. Any other questions? Mr.
8 Silverstein?

9 MEMBER SILVERSTEIN: Just very
10 briefly. Mr. Ashine, how long have you been
11 a managing member of this store?

12 MR. ASHINE: Since 2007.

13 MEMBER SILVERSTEIN: I'm sorry?

14 MR. ASHINE: Since 2007.

15 MEMBER SILVERSTEIN: Since 2007?

16 And you've had no violations, as far as I
17 see your records, since 2009, is that
18 correct?

19 MR. ASHINE: I have not gotten
20 any -- that in my mind that I remember that
21 I have been violated.

22 MEMBER SILVERSTEIN: Okay.

1 Nothing further.

2 CHAIRPERSON MILLER: Okay. Any
3 questions on Board questions?

4 MS. GEPHARDT: No.

5 CHAIRPERSON MILLER: Okay. Thank
6 you. That concludes -- yes.

7 MR. ASHINE: Can I get that --

8 CHAIRPERSON MILLER: You can get
9 down now and go back over. Oh, they're
10 being copied, your pictures.

11 MR. ASHINE: Huh?

12 CHAIRPERSON MILLER: The
13 documents that you wanted in evidence are
14 being copied and we'll return it to you.

15 MEMBER SILVERSTEIN: And you'll
16 have the originals.

17 MR. ASHINE: Huh?

18 CHAIRPERSON MILLER: The staff is
19 copying them now.

20 MR. ASHINE: Okay.

21 CHAIRPERSON MILLER: And we'll
22 return them to you.

1 MR. ASHINE: Should I just wait?

2 CHAIRPERSON MILLER: No, you can
3 go back over there.

4 MR. ASHINE: Okay. Thank you.

5 CHAIRPERSON MILLER: You can take
6 your stuff, yes.

7 Is there any redirect?

8 MS. GEPHARDT: No redirect.

9 CHAIRPERSON MILLER: Okay. Sir,
10 you still can sit at the table.

11 Okay. Then closing?

12 MS. GEPHARDT: Sure, I will
13 conduct the closing.

14 Board Members, the Government was
15 charged today with proving that this
16 Licensee failed to post his ABRA license
17 information on the front door or the
18 exterior window in violation of D.C. Code
19 25-711. The Government has proven this
20 charge in that you heard the testimony of
21 Investigator Jones who said that upon
22 approach to the establishment he could not

1 see any sign on any window or any door,
2 exterior door to the establishment. And in
3 his experience he's familiar with what to
4 look for. And in this case he did not see
5 anything.

6 We also heard through the
7 testimony of the Licensee that he admits
8 that the sign was in the interior of the
9 establishment. The statute specifically
10 says you have to post your ABRA license
11 information on the front door or the
12 exterior windows of the establishment. So
13 inside the establishment does not suffice to
14 meet the criteria that's dictated by the
15 statute.

16 And then furthermore, even if one
17 were to say, well, it was just inside the
18 front door, the Licensee also has shown us
19 and through his own photograph that it was
20 posted on an interior door at the very
21 bottom, certainly not openly available to
22 the public for viewing. So therefore, the

1 Government has proven charge No. 1.

2 For charge No. 2 the Government
3 has also proven that the Licensee permitted
4 the establishment to operate without the
5 presence of a Board-approved manager in
6 violation of D.C. Code 25-701. And in this
7 case we heard the testimony of Investigator
8 Jones that he asked the man who was behind
9 the counter, who was the only one in the
10 establishment who actually worked there, if
11 he was the ABC manager. The individual said
12 that he was. However, when asked if he
13 could produce a license, he could not. And
14 actually it was the next day also that Mr.
15 Jones went back to check the ABRA records
16 and there was no record for this individual.

17 In addition, through the
18 Licensee's own testimony the man who was
19 working that night, Mr. Bekele, had an ABRA
20 license that was expired. Therefore, he was
21 not permitted or an eligible ABC manager.
22 Therefore, the Government has proven through

1 the testimony of Investigator Jones and Mr.
2 Ashine that the Licensee is in violation of
3 charge No. 2.

4 The Government would ask that the
5 Board find the Licensee guilty on those two
6 charges. And in terms of a penalty the
7 Government would request that the Licensee
8 be fined in total a \$700 fine, which
9 includes \$350 for charge 1 and \$350 for
10 charge 2. Thank you.

11 CHAIRPERSON MILLER: Okay. Thank
12 you.

13 Mr. Ashine, do you want to make a
14 closing statement?

15 MR. ASHINE: Yes.

16 CHAIRPERSON MILLER: Okay.

17 MR. ASHINE: I don't have a
18 question or argument with investigator job.
19 So he done what he was supposed to do. I
20 don't have any problem with that. I'm just
21 explaining the situation how the interpret
22 of the law. I put it on inside, which I

1 didn't know that way is supposed to be. All
2 I know is I have to put it so public can see
3 it. So I just notice what on his testimony
4 it was supposed to be on the same address
5 with the house is. So what I know is I had
6 to post it, the same thing that I posted it
7 -- the other sign is all my sign is posted
8 in interior. So that's the first situation.

9 And then about the manager
10 license, I did comply. He had a license for
11 a while. Due to his own particular reason
12 it was expired and then he was always
13 helping me on his schedule only if I'm
14 there. I'm always there. So I sometimes
15 get tired. It's been 13 hours. We open at
16 9:00 and close at 10:00. So it was around
17 9:00, so I have to leave early just so he
18 can close up at night. So that's what
19 happened. So, but he did have a current --
20 both my employee did have a current manager
21 ABC license. And I want the Board to
22 consider all my prior history of the serving

1 in the District, that I been complying with
2 most of the rule and regulation. Thank
3 you.

4 CHAIRPERSON MILLER: Okay. All
5 right. So I'm going to close the record
6 now. And I don't know if you've gotten back
7 your documents, but you will if they're
8 still copying them, and we'll keep copies of
9 what you put into evidence in the record
10 here.

11 The last thing I need to ask you
12 all is if you want to file proposed findings
13 of facts and conclusions of law or waive
14 your right to do so.

15 MS. GEPHARDT: The Government
16 chooses not to file findings of fact and
17 conclusions of law. Thank you.

18 CHAIRPERSON MILLER: Do you
19 understand that question?

20 MR. ASHINE: No.

21 CHAIRPERSON MILLER: Okay. Most
22 people don't do this, but you do have a

1 right if you choose to file a written brief-
2 type of document in which you would go
3 through the transcript and file a document
4 in writing identifying facts that you think
5 that the Board should conclude, as well as
6 laws, legal reasonings, legal conclusions
7 based on those facts.

8 MR. ASHINE: No.

9 CHAIRPERSON MILLER: Okay. All
10 right. So both parties waive.

11 So I'm just going to take vote by
12 the Board to consider this case in closed
13 session per the Open Meetings Amendment Act.

14 As Chairperson of the Alcoholic
15 Beverage Control Board for the District of
16 Columbia and in accordance with Section 405
17 of the Open Meetings Amendment Act of 2010,
18 I move that the ABC Board hold a closed
19 meeting for the purpose of seeking legal
20 advice from our counsel on Case No. 13-CMP-
21 00111, D.C. Mini Supermarket, per Section
22 405(b)(4) of the Open Meetings Amendment Act

1 of 2010 and deliberating upon this case for
2 the reasons cited in 405(b)(13) of the Open
3 Meetings Amendment Act of 2010. Is there a
4 second?

5 MEMBER BROOKS: Second.

6 CHAIRPERSON MILLER: Mr. Brooks
7 has seconded the motion. I'll take a roll
8 call vote on the motion. Mr. Brooks?

9 MEMBER BROOKS: I agree.

10 CHAIRPERSON MILLER: Mr. Alberti?

11 MEMBER ALBERTI: I agree.

12 CHAIRPERSON MILLER: Ms. Miller
13 agrees. Mr. Silverstein?

14 MEMBER SILVERSTEIN: I agree.

15 CHAIRPERSON MILLER: Mr. Jones?

16 MEMBER JONES: I agree.

17 CHAIRPERSON MILLER: It appears
18 that the motion has passed by a 5-0-0 vote.
19 I hereby give notice that the ABC Board will
20 hold a closed meeting in the ABC Board
21 conference room pursuant to the Open
22 Meetings Amendment Act of 2010 and issue an

1 order within 90 days.

2 Okay.

3 MS. GEPHARDT: Thank you.

4 CHAIRPERSON MILLER: That
5 concludes this hearing.

6 You have a question?

7 MR. ASHINE: I didn't hear the
8 last part.

9 CHAIRPERSON MILLER: We will
10 issue a written order on our decision and
11 mail that to you within 90 days.

12 MR. ASHINE: Thank you.

13 CHAIRPERSON MILLER: Okay.

14 MR. ASHINE: Thank you very much.

15 CHAIRPERSON MILLER: All right.

16 So that concludes this morning's calendar
17 and the Board will recess and be back for
18 the afternoon calendar.

19 (Whereupon, the hearing was
20 concluded at 1:27 p.m.)

21

22

A				
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