

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

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IN THE MATTER OF: :

:

KYW, Inc. :

t/a Wah Sing Restaurant : Show Cause

2521 Pennsylvania Ave., SE : Hearing

Retailer CR - ANC-7B :

License No. 514 :

Case #12-AUD-00067 :

:

(Failed to Maintain Books :

and Records) :

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September 18, 2013

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

presiding.

PRESENT:

RUTHANNE MILLER, Chairperson

NICK ALBERTI, Member

DONALD BROOKS, Member

MIKE SILVERSTEIN, Member

ALSO PRESENT:

CHRISSY GEPHARDT, ESQ, OAG

ADENIYI ADEJUNMOBI, ABRA Analyst

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

2 (10:39 a.m.)

3 CHAIRPERSON MILLER: The next case  
4 is a Show Cause Hearing. It is Case No. 12-  
5 AUD-00067, Wah Sing Restaurant located at 2521  
6 Pennsylvania Avenue, S.E., License No. 514, in  
7 ANC-7B.

8 When you are ready, if you could  
9 introduce yourselves for the record?

10 INTERPRETER CHEN: My name is Gary  
11 Chen. I'm the Interpreter for Mr. Wong.

12 CHAIRPERSON MILLER: You are what?

13 INTERPRETER CHEN: Interpreter.

14 CHAIRPERSON MILLER: You're an  
15 interpreter. Okay. Korean? Okay. I'm going  
16 to swear you in as an Interpreter right now.  
17 I have to swear you in as an Interpreter.  
18 Would you raise your right hand?

19 Do you solemnly affirm that you  
20 will faithfully and accurately interpret the  
21 proceedings in this matter from Korean into  
22 English and from English into Korean to the

1 best of your ability?

2 INTERPRETER CHEN: I do. But  
3 there is a Chinese Mandarin and English. I'm  
4 sorry.

5 CHAIRPERSON MILLER: Not Korean?  
6 Let's go back then. Okay. Mandarin?

7 INTERPRETER CHEN: Mandarin.

8 CHAIRPERSON MILLER: Okay.

9 Do you solemnly affirm that you  
10 will faithfully and accurately interpret the  
11 proceedings in this matter from Mandarin into  
12 English and from English into Mandarin to the  
13 best of your ability?

14 INTERPRETER CHEN: Yes, ma'am.

15 CHAIRPERSON MILLER: Okay. Thank  
16 you very much. And your name again is?

17 INTERPRETER CHEN: Gary Chen.

18 CHAIRPERSON MILLER: What?

19 INTERPRETER CHEN: Gary Chen.

20 CHAIRPERSON MILLER: Chen, Chang?

21 INTERPRETER CHEN: C-H-E-N.

22 CHAIRPERSON MILLER: Chen?

1 INTERPRETER CHEN: Chen.

2 CHAIRPERSON MILLER: Got it.

3 Okay. All right. And you, sir?

4 MR. WONG: Koi C. Wong, W-O-N-G,  
5 last name.

6 CHAIRPERSON MILLER: The owner?

7 MR. WONG: Yes.

8 CHAIRPERSON MILLER: Okay. All  
9 right. Ms. Gephardt, do we have any  
10 preliminary issues?

11 MS. GEPHARDT: No, we do not have  
12 any preliminary issues. We are ready to  
13 proceed to a hearing.

14 CHAIRPERSON MILLER: Okay. Then,  
15 Mr. Chen, since you are interpreting, I just  
16 want to ask you if you are familiar with the  
17 Board's proceedings? You are?

18 INTERPRETER CHEN: Yes.

19 CHAIRPERSON MILLER: You have done  
20 this before, so I don't need to explain that.

21 INTERPRETER CHEN: Yes.

22 CHAIRPERSON MILLER: Okay. All

1 right. Then, Ms. Gephardt, do you have an  
2 opening statement?

3 MS. GEPHARDT: Yes, a brief  
4 statement. Board Members, good morning. You  
5 will hear today that on October 25, 2012 --

6 CHAIRPERSON MILLER: Wait. Let me  
7 just pause right here.

8 MS. GEPHARDT: Yes.

9 CHAIRPERSON MILLER: Mr. Chen,  
10 would you just let us know if Ms. Gephardt is  
11 going too fast or if we are ever going to  
12 fast?

13 INTERPRETER CHEN: Yes, I will.

14 CHAIRPERSON MILLER: Okay.

15 INTERPRETER CHEN: Thanks.

16 MS. GEPHARDT: Okay.

17 CHAIRPERSON MILLER: Thank you.

18 Sorry, Ms. Gephardt.

19 MS. GEPHARDT: That's fine. You  
20 will hear that on October 25, 2012, ABRA  
21 Compliance Analyst Monica Clark and Niyi  
22 Adejunmobi went to Wah Sing Restaurant to

1       conduct an audit of their books and records  
2       for the year 2011.

3               Mr. Adejunmobi will testify that  
4       the establishment does not keep guest checks  
5       or receipts on-site and no records were  
6       provided for the years 2010 and 2011.

7               At the end, the Government will  
8       ask that based upon the evidence, the Board  
9       will find that this licensee failed to keep  
10      and maintain upon the premises for a period of  
11      three years records, which include invoices  
12      and delivery slips, which adequately and fully  
13      reflect all purchases, sales and deliveries of  
14      all alcoholic beverages. Thank you.

15              CHAIRPERSON MILLER: Okay. Oh,  
16      okay, Mr. Chen, do you have any opening  
17      statement at this time? You can make one now  
18      or when you present your case.

19              INTERPRETER CHEN: He maintain  
20      that he keep all the records with him, but I  
21      guess the detail will be saved for the later  
22      session.

1 CHAIRPERSON MILLER: All right.

2 INTERPRETER CHEN: But that is his  
3 remark, he maintain. He maintained those  
4 records.

5 CHAIRPERSON MILLER: Okay. Okay.  
6 We got it. All right. Ms. Gephardt, do you  
7 have a witness?

8 MS. GEPHARDT: I do. I would like  
9 to call Mr. Adejunmobi to the stand.

10 CHAIRPERSON MILLER: Good morning.  
11 Would you raise your right hand and I'll swear  
12 you in.  
13 Whereupon,

14 ADENIYI ADEJUNMOBI  
15 was called as a witness by Counsel for the  
16 Government, and having been first duly sworn,  
17 assumed the witness stand and was examined and  
18 testified as follows:

19 CHAIRPERSON MILLER: Thank you.  
20 Have a seat.

21 DIRECT EXAMINATION

22 MS. GEPHARDT: Good morning.

1 MR. ADEJUNMOBI: Good morning.

2 MS. GEPHARDT: Could you, please,  
3 state your name and spell it for the record?

4 MR. ADEJUNMOBI: Adeniyi  
5 Adejunmobi, A-D-E-N-I-Y-I A-D-E-J-U-N-M-O-B-  
6 I.

7 MS. GEPHARDT: And, Mr.  
8 Adejunmobi, where do you work?

9 MR. ADEJUNMOBI: I work for ABRA,  
10 Alcoholic Beverage Regulation Administration,  
11 Washington, D.C.

12 MS. GEPHARDT: And what is your  
13 title?

14 MR. ADEJUNMOBI: I'm a Compliance  
15 Analyst.

16 MS. GEPHARDT: And as a Compliance  
17 Analyst, what are your job responsibilities?

18 MR. ADEJUNMOBI: My job is to  
19 review quarterly statements submitted by  
20 licensees that were licensed by ABRA and to go  
21 out and do -- conduct full audit to make sure  
22 that the licenses are in compliance with their



1 food requirement.

2 MS. GEPHARDT: Okay. And how long  
3 have you been in this position?

4 MR. ADEJUNMOBI: Approximately,  
5 four years.

6 MS. GEPHARDT: Okay. Are you  
7 familiar with a licensee by the name of Wah  
8 Sing Restaurant?

9 MR. ADEJUNMOBI: Yes.

10 MS. GEPHARDT: And did you have  
11 occasion to visit Wah Sing on October 25,  
12 2012?

13 MR. ADEJUNMOBI: Yes.

14 MS. GEPHARDT: Okay. And what was  
15 the purpose of your visit?

16 MR. ADEJUNMOBI: The purpose was  
17 to conduct an audit for compliance.

18 MS. GEPHARDT: Okay. And how was  
19 -- how were they chosen to do an audit? Was  
20 it random?

21 MR. ADEJUNMOBI: Yes, it was  
22 random audit.

1 MS. GEPHARDT: Okay. And what  
2 were you there to audit?

3 MR. ADEJUNMOBI: I was ordered to  
4 audit the quarterly statements that were  
5 submitted to ABRA.

6 MS. GEPHARDT: Okay. Only the  
7 quarterly statements?

8 MR. ADEJUNMOBI: Well, the  
9 quarterly statement is what we go out to  
10 verify, to make sure that the figures were  
11 reported therein, that they should have  
12 supporting documentation, such as the guest  
13 checks that were issued to the patrons, that  
14 is the business to determine that the figures  
15 that they reported on the quarterly statements  
16 were valid.

17 MS. GEPHARDT: I see. When you  
18 came -- when you went to visit there on  
19 October the 25th, who did you speak to?

20 MR. ADEJUNMOBI: It was a  
21 different gentleman, not him. The gentleman  
22 that was there told me that his brother is not

1       available and then he told us too, because it  
2       was an ABRA Audit Team that was out there,  
3       that the bookkeeper is coming. I waited for  
4       about two hours, nobody showed up.

5               And we asked and requested for the  
6       books and records. He said he doesn't have  
7       anything and I inquired from the gentleman, I  
8       said what about if somebody walk into your  
9       restaurant to order food or drink? He said  
10      well, he just serve them the drink. He  
11      doesn't keep the records.

12             MS. GEPHARDT: When you went to do  
13      this audit, was the owner given formal notice  
14      that you would be arriving?

15             MR. ADEJUNMOBI: Yes. We give  
16      them -- we always give them 30 day notice.  
17      Actually, it can take longer than 30 days  
18      before we go there.

19             MS. GEPHARDT: Right.

20             MR. ADEJUNMOBI: But we do give  
21      them that, because we have several of these  
22      audits scheduled. So we issue them 30 days

1 notice by law.

2 MS. GEPHARDT: And what was the  
3 time period that you were auditing? What was  
4 the time frame?

5 MR. ADEJUNMOBI: The year? The  
6 year that we were auditing was 2011 quarterly  
7 statement.

8 MS. GEPHARDT: Okay. And you  
9 mentioned that you waited for two hours for  
10 the bookkeeper to show up. What did the owner  
11 say with respect to the books and records that  
12 you requested and them not being there?

13 MR. ADEJUNMOBI: He say he doesn't  
14 have it. He does not have it. And he said  
15 this in front of the Audit Team.

16 MS. GEPHARDT: Did --

17 MR. ADEJUNMOBI: Ms. Clark and Mr.  
18 Malloy.

19 MS. GEPHARDT: -- you ask him why  
20 he doesn't have it?

21 MR. ADEJUNMOBI: He say he doesn't  
22 keep it.

1 MS. GEPHARDT: What about with  
2 respect to guest checks and receipts? What  
3 does he say about his ability or his system or  
4 process for keeping those?

5 MR. ADEJUNMOBI: It was -- what he  
6 told me is that when people come in, he just  
7 serves them the food. He doesn't keep track  
8 of it.

9 MS. GEPHARDT: All right. Did he  
10 say whether he wrote it down or kept it on a  
11 piece of paper anywhere or anything like that?

12 MR. ADEJUNMOBI: Well, what he  
13 actually said was that he was going to have  
14 his bookkeeper and we waited and waited and we  
15 never saw the bookkeeper. He was going to  
16 have the bookkeeper and there was no follow-up  
17 up to the time that we prepared the audit  
18 report.

19 MS. GEPHARDT: Did he ask you to  
20 come back at any time to show you his records,  
21 to give him an opportunity to show you his  
22 records?

1                   MR. ADEJUNMOBI:   Actually at the  
2                   time we made the conclusion, there was a  
3                   second visit.   The first visit, he wasn't  
4                   there.   And they weren't open.   The place was  
5                   locked.

6                   MS. GEPHARDT:   And how soon prior  
7                   to your visit in October did you go there and  
8                   it was locked and he wasn't there?

9                   MR. ADEJUNMOBI:   That was like a  
10                  month before and he -- when we finally -- it  
11                  took us a little while to get in contact with  
12                  him to have a contact number.   The ones we  
13                  have on file, we called the number.   Nobody  
14                  was responding.   Finally, we spoke to the  
15                  Chief of Investigation, Johnny Jackson, and he  
16                  had an Investigator go over there.   I don't  
17                  know when, maybe during the open time at  
18                  night, and they finally got in contact with  
19                  them and they provided me with the telephone  
20                  number to call them.

21                  MS. GEPHARDT:   When you first --  
22                  when you went to that first visit, you said a

1 month prior?

2 MR. ADEJUNMOBI: Yes.

3 MS. GEPHARDT: Did you give him  
4 notice of that visit?

5 MR. ADEJUNMOBI: What notice?

6 MS. GEPHARDT: You said you went  
7 over there. You mentioned that you went over  
8 there, approximately, a month prior to your  
9 October 25th visit.

10 MR. ADEJUNMOBI: Yes, that was the  
11 first visit.

12 MS. GEPHARDT: But did you give  
13 him notice you were going to be showing up?

14 MR. ADEJUNMOBI: Oh, yes. We  
15 always write them an engagement letter to tell  
16 them that we are coming to set up the  
17 appointment, to determine the appointment date  
18 and part of the agreement that I will state if  
19 you can't make the appointment, give me a call  
20 and we can reschedule. And part of the stuff  
21 that we put in the letter is the requirements  
22 of books and records and anything that is

1 going to help us to validate the data that  
2 were being reported on the quarterly statement  
3 furnished to ABRA.

4 MS. GEPHARDT: Okay. And did he  
5 say why he didn't keep guest checks and  
6 receipts?

7 MR. ADEJUNMOBI: He just told me  
8 he is not aware he has to keep them. Yes,  
9 lack of awareness of the regs, of the  
10 regulations.

11 MS. GEPHARDT: And what did you --  
12 did you ask him for books and records? Not  
13 just for 2011, but did you ask him for books  
14 and records going back three years?

15 MR. ADEJUNMOBI: Well, we did ask  
16 him, but the way the Audit Team works is they  
17 was to get -- to accomplice me on that audit.  
18 They are normally asked and they did. Mr.  
19 Malloy did because I have to make sure -- I  
20 mean, I did make sure that Mr. Malloy did. He  
21 asked him and I asked Mr. Malloy, you know,  
22 what's the conclusion. They couldn't provide



1       it to him.

2                   MS. GEPHARDT:   You said who  
3       couldn't provide it to him?

4                   MR. ADEJUNMOBI:   The licensee.

5                   MS. GEPHARDT:   Couldn't provide it  
6       to Mr. Malloy?

7                   MR. ADEJUNMOBI:   Yes.

8                   MS. GEPHARDT:   And he is an ABRA  
9       Investigator, you say?

10                  MR. ADEJUNMOBI:   He used to be.

11                  MS. GEPHARDT:   Okay. Did you ask  
12       him any other questions related to his -- the  
13       maintenance of his books and records --

14                  MR. ADEJUNMOBI:   Yes.

15                  MS. GEPHARDT:   -- and guest  
16       receipts?

17                  MR. ADEJUNMOBI:   Yes. We asked  
18       him to provide us with the books and records.  
19       And finally he just told us that his  
20       bookkeeper is going to come and talk to us and  
21       we never had anything from him. We waited two  
22       hours.

1 MS. GEPHARDT: Okay.

2 MR. ADEJUNMOBI: And in the  
3 process of waiting, I was communicating with  
4 the Chief in the office.

5 MS. GEPHARDT: Yes.

6 MR. ADEJUNMOBI: Maybe I should --  
7 then when we came back, we never had backup,  
8 nothing. No communication whatsoever.

9 MS. GEPHARDT: Okay. All right.  
10 Thank you. That's all I have for this  
11 witness.

12 CHAIRPERSON MILLER: Do you have  
13 any cross-examination questions of this  
14 witness?

15 INTERPRETER CHEN: Mr. Wong said  
16 they do keep the receipts --

17 CHAIRPERSON MILLER: No. Wait.  
18 It's not a time for him to testify. Does he  
19 have any questions for this witness?

20 INTERPRETER CHEN: Oh, okay.  
21 Sorry.

22 CHAIRPERSON MILLER: He will have

1       that opportunity.

2                   INTERPRETER CHEN:   Yes.

3                   CHAIRPERSON MILLER:   Okay.

4                   CROSS-EXAMINATION

5                   INTERPRETER CHEN:   His question is  
6       when -- about what time that the -- this  
7       gentleman had to wait for the bookkeeper,  
8       because he said that the bookkeeper is not  
9       aware called him and there was no reply from  
10      him.  He said the bookkeeper came, arrived  
11      within 30 minutes.

12                  MEMBER ALBERTI:   A question?

13                  MS. GEPHARDT:   In the form of a  
14      question.

15                  INTERPRETER CHEN:   Okay.

16                  CHAIRPERSON MILLER:   Right.  He  
17      will get to testify later.  Is there a  
18      question for this witness?

19                  INTERPRETER CHEN:   Well, his  
20      question is when he has to wait for this two  
21      hours?  Because he doesn't aware of this two  
22      hours waiting period.

1 CHAIRPERSON MILLER: You mean what  
2 time was the two hours?

3 INTERPRETER CHEN: Yes.

4 CHAIRPERSON MILLER: Do you  
5 understand the question?

6 MR. ADEJUNMOBI: Well --

7 CHAIRPERSON MILLER: What I  
8 understand the question to be is you testified  
9 that you had to wait two hours.

10 MR. ADEJUNMOBI: Yes.

11 CHAIRPERSON MILLER: And so he  
12 wants to know well, what time was that? From  
13 when to when?

14 MR. ADEJUNMOBI: We arrived at the  
15 place at 10:00. Here they opened the door  
16 until 10:20, approximately, 10:20. We didn't  
17 leave there until 12:00. And we kept waiting  
18 and we kept calling. He kept calling the  
19 bookkeeper and the bookkeeper kept saying I'll  
20 be there. I'll be there. I'll be there. But  
21 we never saw. It was a lady that was on the  
22 phone.

1 CHAIRPERSON MILLER: A lady  
2 called?

3 MR. ADEJUNMOBI: Yes.

4 CHAIRPERSON MILLER: Okay.

5 MR. ADEJUNMOBI: Because I spoke  
6 to the bookkeeper, too, on the phone, and he  
7 kept saying she coming, she coming, but she  
8 never came.

9 CHAIRPERSON MILLER: Okay. Any  
10 other questions?

11 INTERPRETER CHEN: That's not a  
12 question, so I'm not going to --

13 CHAIRPERSON MILLER: Okay. Do  
14 Board Members have questions?

15 MEMBER ALBERTI: I do.

16 CHAIRPERSON MILLER: Okay. Mr.  
17 Alberti?

18 MEMBER ALBERTI: Mr. Adejunmobi,  
19 you said you spoke with the bookkeeper?

20 MR. ADEJUNMOBI: Yes.

21 MEMBER ALBERTI: Once, more than  
22 once?

1                   MR. ADEJUNMOBI: A couple of times  
2                   on the phone. She kept saying she coming.

3                   MEMBER ALBERTI: Okay. Okay. So  
4                   at least two times? Is that --

5                   MR. ADEJUNMOBI: Yes.

6                   MEMBER ALBERTI: -- what you are  
7                   telling me?

8                   MR. ADEJUNMOBI: Yes.

9                   MEMBER ALBERTI: Okay. And you  
10                  said you left there at 12:20?

11                  MR. ADEJUNMOBI: No, we left at  
12                  12:00.

13                  MEMBER ALBERTI: You left there at  
14                  12:00?

15                  MR. ADEJUNMOBI: Yes.

16                  MEMBER ALBERTI: Oh, okay.

17                  MR. ADEJUNMOBI: We got there at  
18                  10:00.

19                  MEMBER ALBERTI: And then --

20                  MR. ADEJUNMOBI: Actually, we --

21                  MEMBER ALBERTI: -- and entered at  
22                  10:20? Is that what your testimony was?

1 MR. ADEJUNMOBI: -- did at 10:20.

2 MEMBER ALBERTI: Did you provide  
3 Mr. Sing or the bookkeeper with your contact  
4 information?

5 MR. ADEJUNMOBI: They have my  
6 contact information.

7 MEMBER ALBERTI: From where?

8 MR. ADEJUNMOBI: Yes, we left -- I  
9 left a business card and again from the letter  
10 that I sent out, the engagement letter  
11 announcing the audit, notifying them of the  
12 audit.

13 MEMBER ALBERTI: So you provided  
14 at -- during your visit, you provided Mr. Sing  
15 with your business card?

16 MR. ADEJUNMOBI: Yes.

17 MEMBER ALBERTI: Thank you. I  
18 have no further questions.

19 CHAIRPERSON MILLER: Others? Mr.  
20 Brooks?

21 MEMBER BROOKS: Yes. Were you  
22 alone when you came to visit him or did you

1 have someone with you?

2 MR. ADEJUNMOBI: No, sir. It was  
3 an ABRA Audit Team. And the Audit Team  
4 consisted of three individuals: Investigator  
5 Malloy, Compliance Analyst Monica Clark and  
6 myself.

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

9 CHAIRPERSON MILLER: Others? I  
10 just have a few questions. The individual you  
11 spoke with at the establishment, did you say  
12 that was Mr. Sing's brother or who?

13 MR. ADEJUNMOBI: I believe. It  
14 wasn't him though. It was somebody else that  
15 was there.

16 CHAIRPERSON MILLER: You believe--

17 MR. ADEJUNMOBI: Probably his  
18 brother.

19 CHAIRPERSON MILLER: Probably.  
20 Okay.

21 MR. ADEJUNMOBI: Maybe. I mean,  
22 it's just a speculation on my part, but he was



1 more representing. He was the one that opened  
2 the door for us.

3 CHAIRPERSON MILLER: Okay. And he  
4 said, is it your testimony that he said, he  
5 didn't keep records?

6 MR. ADEJUNMOBI: Yes, ma'am.  
7 Well, he said that he did keep the records,  
8 but records were not available for us to see,  
9 but that we can talk to his bookkeeper.

10 CHAIRPERSON MILLER: Okay.

11 MR. ADEJUNMOBI: And that was the  
12 bookkeeper that I communicated to twice in his  
13 presence, because he told me and she said she  
14 will come in, she will come in, she will come  
15 in.

16 CHAIRPERSON MILLER: So you never  
17 met with the bookkeeper?

18 MR. ADEJUNMOBI: No.

19 CHAIRPERSON MILLER: And did you  
20 ask the bookkeeper questions?

21 MR. ADEJUNMOBI: No.

22 CHAIRPERSON MILLER: No. So did

1       you ask Mr. Sing how he filed quarterly  
2       statements without keeping records?

3                   MR. ADEJUNMOBI:   That was what led  
4       to the bookkeeper.

5                   CHAIRPERSON MILLER:   That was for  
6       his bookkeeper?

7                   MR. ADEJUNMOBI:   That the  
8       bookkeeper compares the quarterly statements.

9                   CHAIRPERSON MILLER:   Okay.

10                  MR. ADEJUNMOBI:   But then the  
11       other person that I asking, because this is  
12       something that I do when I go out on the  
13       audit, I put a scenario, so whenever somebody  
14       walking in here or walk in, I want to order  
15       food, he said he just sells the food. He  
16       doesn't keep the record. He has a couple of  
17       antiquated cash register sitting out there.  
18       But I don't know if he wasn't using that. He  
19       said he just ring things up and put it in the  
20       cash register.

21                  But the hard copy evidence was not  
22       produced.

1                   CHAIRPERSON MILLER: No records  
2                   were produced?

3                   MR. ADEJUNMOBI: No documented --  
4                   no written documented evidence.

5                   CHAIRPERSON MILLER: Okay. Was  
6                   this a first audit? I mean, this was your  
7                   second visit, but was this the first audit  
8                   that has been done of this establishment that  
9                   you know of?

10                  MR. ADEJUNMOBI: Within the time I  
11                  been working to ABRA, ma'am, yes.

12                  CHAIRPERSON MILLER: And how long  
13                  has that been?

14                  MR. ADEJUNMOBI: Approximately,  
15                  four years.

16                  CHAIRPERSON MILLER: Okay. Okay.  
17                  Thank you. Any questions on Board questions?

18                  MS. GEPHARDT: No.

19                  CHAIRPERSON MILLER: Okay. Did  
20                  you have any questions based on the Board  
21                  questions?

22                  INTERPRETER CHEN: He doesn't have

1 a question.

2 CHAIRPERSON MILLER: Okay.

3 INTERPRETER CHEN: Not right now.

4 CHAIRPERSON MILLER: All right.

5 Then you can be excused. Thank you very much.

6 MR. ADEJUNMOBI: You're welcome.

7 (Whereupon, witness was excused.)

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

10 MS. GEPHARDT: No, I don't have  
11 any other witnesses.

12 CHAIRPERSON MILLER: Okay. And,  
13 Mr. Chen, then is your witness Mr. Sing? I  
14 mean, is Mr. Sing the witness for your case?  
15 I haven't -- I don't think I have sworn him in  
16 yet.

17 INTERPRETER CHEN: Oh, I'm sorry.

18 CHAIRPERSON MILLER: I have sworn  
19 you in, but if you are going into some kind of  
20 testimony, I might as well swear you in now.

21 INTERPRETER CHEN: Yes.

22 CHAIRPERSON MILLER: So, Mr. Sing,

1 will you raise your right hand?

2 Whereupon,

3 KOI C. WONG

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

8 CHAIRPERSON MILLER: Okay. And I  
9 would just say if other Board Members don't  
10 mind or if Ms. Gephardt you don't mind, I  
11 don't have a problem with them -- him  
12 testifying from here, since the two of them  
13 can sit there together. Okay. All right. Go  
14 ahead.

15 DIRECT EXAMINATION

16 INTERPRETER CHEN: Okay. He said  
17 the two hours waiting time is impossible,  
18 because the establishment opened at 11:00, so  
19 someone arrived at the -- at 10:20 and talked  
20 to this gentleman.

21 CHAIRPERSON MILLER: Okay.

22 MR. WONG: And the bookkeeper

1 arrived before 11:00, at the time business is  
2 open.

3 INTERPRETER CHEN: Mr. Wong said  
4 they kept all the transaction records and that  
5 he presented those records to the gentleman  
6 and gentleman said this is not the -- did not  
7 meet the requirements of the receipt -- of the  
8 record as a receipt.

9 He said that they wanted two  
10 receipts and they only present one receipt.  
11 And that the other receipts, it sounds like to  
12 me, is like individual itemized receipt, which  
13 they don't have.

14 CHAIRPERSON MILLER: Okay.

15 MR. WONG: They have the record  
16 for the cash registry -- register, but they  
17 don't issue hand-written receipt to the  
18 customer. But the other record is stored in  
19 the cash register.

20 INTERPRETER CHEN: That's all he  
21 has to say.

22 CHAIRPERSON MILLER: Okay. Thank

1       you. Ms. Gephardt, do you have cross-  
2       examination?

3                   MS. GEPHARDT: Yes.

4                   CROSS-EXAMINATION

5                   MS. GEPHARDT: You mentioned that  
6       you don't write out the receipts, an itemized  
7       receipt for each guest. But it is within the  
8       register. Can you print out a copy from the  
9       register of all the transactions you had that  
10      day?

11                  MR. WONG: Yes. We kept all the  
12      cashiers receipt.

13                  MS. GEPHARDT: So when  
14      Investigators or the Compliance Analyst were  
15      there that day, how come you didn't show them  
16      those printed out?

17                  INTERPRETER CHEN: He said that he  
18      did present those to the Investigator, but  
19      they said this is not up to the requirement.  
20      They want a written receipt to be issued to  
21      the -- each customer and that they need to  
22      keep that piece of receipt.

1 MS. GEPHARDT: So when customers  
2 come to your establishment and they order  
3 food, do they -- or alcohol, do they get any  
4 kind of a receipt?

5 INTERPRETER CHEN: His answer is  
6 no, to the -- for carryout, yes. For people  
7 coming to order wine or food, yes. For  
8 carryout food, yes. For the beer and the  
9 wine, no.

10 He said that the order for the  
11 liquor is available on a daily basis.

12 MS. GEPHARDT: So you said that  
13 people who come in and order liquor, they  
14 don't get a receipt. But do you have a  
15 receipt of the sales of liquor that you sold?

16 MR. WONG: Yes. I get a receipt  
17 for sale.

18 MS. GEPHARDT: And how come you  
19 didn't show those to the Investigators when  
20 they came?

21 INTERPRETER CHEN: He said that he  
22 did present those receipt to the Investigator



1       when they were there.

2                   MS. GEPHARDT:   And you did that  
3       for the whole year of 2011?

4                   MR. WONG:    Yeah.

5                   MS. GEPHARDT:   What did he say?

6                   MR. WONG:    More than 2011.   How  
7       many years?   Four or five years?

8                   INTERPRETER CHEN:   He present four  
9       or five years of records.

10                  MS. GEPHARDT:   Okay.   The book --  
11       the records keeper who was previously  
12       mentioned, a female, first of all, do you have  
13       a record keeper?

14                  INTERPRETER CHEN:   He said yes,  
15       there is a lady take care of the tax and some  
16       other bookkeeping business.

17                  MS. GEPHARDT:   And what is your  
18       recollection of that day when the  
19       Investigators were on the phone with your  
20       accountant or your tax person, as you were  
21       just mentioning?   What was your recollection  
22       of how that scenario played out?

1 INTERPRETER CHEN: He doesn't  
2 have.

3 MEMBER SILVERSTEIN: Say again  
4 please.

5 INTERPRETER CHEN: He --

6 MEMBER SILVERSTEIN: We need to  
7 hear these.

8 INTERPRETER CHEN: He doesn't  
9 remember the talk between the bookkeeper and  
10 the Investigator at the time. All he said is  
11 that the top duration is arrive shortly. It's  
12 only 15 minutes. The bookkeeper has an  
13 estimated time. He doesn't have recollection  
14 on that conversation.

15 All he remember is that the  
16 bookkeeper came into the store within 30  
17 minutes of time frame.

18 MS. GEPHARDT: So do you maintain  
19 that the Investigators, the Analysts met with  
20 your bookkeeper?

21 MR. WONG: They don't talk to in-  
22 person, but they talk over the phone.

1 MS. GEPHARDT: Okay.

2 MR. WONG: Because when the  
3 bookkeeper came and Investigator had left.

4 MS. GEPHARDT: Okay.

5 CHAIRPERSON MILLER: I'm sorry,  
6 could you clarify that again?

7 MR. WONG: When the bookkeeper  
8 arrived, the Investigator had left --

9 CHAIRPERSON MILLER: Okay.

10 MR. WONG: -- the establishment.

11 CHAIRPERSON MILLER: Thank you.

12 MS. GEPHARDT: You mentioned that  
13 you provided the Investigators with four to  
14 five years of receipts and tax and things like  
15 that. Is that correct?

16 MR. WONG: The Investigator  
17 required for one month of records and he  
18 presented an entire year of records.

19 MS. GEPHARDT: The Investigators  
20 only requested one month and he provided the  
21 entire year?

22 MR. WONG: Yes. Yes, the entire

1 year.

2 MS. GEPHARDT: What was the whole  
3 reference to four to five years then?

4 MR. WONG: You keep the written.

5 INTERPRETER CHEN: He said that he  
6 keep -- he has kept four or five years record,  
7 but only showed one year of record.

8 MS. GEPHARDT: I see. And where  
9 in your establishment do you keep your  
10 records?

11 MR. WONG: In the store.

12 MS. GEPHARDT: In the back or --

13 MR. WONG: In the back area of the  
14 store.

15 MS. GEPHARDT: Okay. That's all I  
16 have.

17 CHAIRPERSON MILLER: Board  
18 questions? Yes, Mr. Alberti?

19 MEMBER ALBERTI: Mr. Sing, the day  
20 that the Investigators visited your store,  
21 were you there?

22 MR. WONG: Yeah, I was there, yes.

1                   MEMBER ALBERTI:   Were there any  
2   other employees there?

3                   MR. WONG:    No.

4                   MEMBER ALBERTI:   Just you?

5                   INTERPRETER CHEN:   Only him.

6                   MEMBER ALBERTI:   Did you bring --  
7   do you have an example here with you today of  
8   what you showed the Investigator?

9                   INTERPRETER CHEN:   He doesn't have  
10   it with him, no.

11                  MEMBER ALBERTI:   Thank you.   No  
12   further questions.

13                  CHAIRPERSON MILLER:   Others?   All  
14   right.   I just have a couple.   So, Mr. Sing,  
15   your records are not kept with the bookkeeper,  
16   they are kept at the establishment?

17                  INTERPRETER CHEN:   He give those  
18   records to the bookkeeper, but he -- she  
19   returned those back to him on monthly basis.

20                  CHAIRPERSON MILLER:   Okay.   So  
21   when the Investigators came to your  
22   establishment, your records were at the

1       establishment?

2                   MR. WONG:   Yes.

3                   CHAIRPERSON MILLER:   And you gave  
4       them a month's worth of records?

5                   MR. WONG:   The Investigator  
6       requested one months of records, but he, Mr.  
7       Sing, presented the entire year of record to  
8       the Investigator.

9                   CHAIRPERSON MILLER:   Did he turn  
10      over any records to the Investigator?

11                  MR. WONG:   No.

12                  CHAIRPERSON MILLER:   When the  
13      Investigator left, did you think that you had  
14      complied with his request?

15                  INTERPRETER CHEN:   He asked his  
16      bookkeeper to contact the Investigator.

17                  CHAIRPERSON MILLER:   He asked his  
18      bookkeeper to contact the Investigator.   And  
19      does he know whether she did?

20                  INTERPRETER CHEN:   He doesn't know  
21      whether or not his bookkeeper contact the  
22      Investigator.   He doesn't know.

1                   CHAIRPERSON MILLER:   Okay.   And  
2   his testimony contradicts the Investigator's  
3   in at least one way in which he says he was at  
4   the store when the -- at the establishment  
5   when the Investigator came and the  
6   Investigator said he spoke with someone else.  
7   Why should we believe Mr. Sing?

8                   INTERPRETER CHEN:   He said when  
9   the bookkeeper came, the Investigator left, so  
10   he asked the bookkeeper to contact the  
11   Investigator.   The bookkeeper promise to do  
12   so, but whether or not she did that, Mr. Sing  
13   has no knowledge of that.

14                  CHAIRPERSON MILLER:   Okay.   Just  
15   my question was though that he, Mr. Sing, says  
16   he was there that day and the Investigator  
17   says someone else was there that day.

18                  MR. WONG:   Well, so was I.

19                  INTERPRETER CHEN:   He insist that  
20   the individual the Investigator talked to is  
21   him.

22                  CHAIRPERSON MILLER:   Okay.   Okay.

1 All right. Any other questions? Any  
2 questions on Board questions?

3 MEMBER ALBERTI: Well, yeah.

4 CHAIRPERSON MILLER: Oh, you have  
5 another question, Mr. Alberti?

6 MEMBER ALBERTI: Yes.

7 CHAIRPERSON MILLER: Okay.

8 MEMBER ALBERTI: Mr. Sing, there  
9 were three people there. Do you remember what  
10 the other -- you saw the Investigator. If you  
11 were there, do you --

12 MR. WONG: One lady.

13 MEMBER ALBERTI: Right, wait, no.  
14 I'm speaking. Can you tell me what the other  
15 two people looked like?

16 MR. WONG: Two gentlemen, one  
17 lady, female officer.

18 MEMBER ALBERTI: Okay. Were they  
19 white? Were they black? African-American?

20 MR. WONG: The female officer is  
21 the African-American and he forget the third  
22 one, the second male officer he doesn't



1 remember.

2 MEMBER ALBERTI: He doesn't

3 remember.

4 INTERPRETER CHEN: Yes, he only

5 remember two persons --

6 MEMBER ALBERTI: Okay.

7 INTERPRETER CHEN: -- African-

8 American.

9 MEMBER ALBERTI: Do you remember  
10 if the male was young or old?

11 MR. WONG: In her 40s.

12 MEMBER ALBERTI: Pardon?

13 MR. WONG: The female officer is  
14 in her 40s.

15 MEMBER ALBERTI: And the male?

16 MR. WONG: Female, yes.

17 MEMBER ALBERTI: And the male was  
18 -- how old was the male?

19 MR. WONG: The -- pretty big by  
20 size and the other gentleman is more slim than  
21 the gentleman. I don't know what --

22 MEMBER ALBERTI: Okay.

1 MR. WONG: -- the witness --

2 MEMBER ALBERTI: Was he young?

3 Was he an older man? Was he a young man?

4 MR. WONG: Younger. He looks  
5 younger to him.

6 CHAIRPERSON MILLER: Okay.

7 MEMBER ALBERTI: Thank you.

8 CHAIRPERSON MILLER: Okay. Any  
9 other questions? All right. Are there any  
10 questions on Board questions?

11 MS. GEPHARDT: My question would  
12 be you mentioned that you were able to provide  
13 a whole year's worth of records to the  
14 Investigators when they showed up that day?

15 MR. WONG: Um-hum.

16 MS. GEPHARDT: And why did you --  
17 why was the bookkeeper important? Why did you  
18 need to contact them?

19 MR. WONG: I contact bookkeeper?

20 MS. GEPHARDT: Why did you need to  
21 contact the bookkeeper if the records were on-  
22 site?

1                   MR. WONG: The Investigator insist  
2                   that they need to present the written receipt  
3                   rather than the receipt from the cash  
4                   register. So I -- he believed that -- yes,  
5                   check the receipt and they wanted check  
6                   receipt, which he doesn't have. So he wanted  
7                   help from his bookkeeper.

8                   MS. GEPHARDT: Okay. I'm just  
9                   confused as to what receipts he keeps in his  
10                  shop.

11                  MR. WONG: Cashier receipts.

12                  MS. GEPHARDT: Well, the guest  
13                  check receipts go to the bookkeeper?

14                  MR. WONG: They don't have the  
15                  other one. They only have the cash register  
16                  receipt.

17                  MS. GEPHARDT: Okay. Thank you.

18                  CHAIRPERSON MILLER: Okay. So I  
19                  think that completes the questioning of this  
20                  witness. And I think if there are no other  
21                  witnesses, we are at closing arguments, I  
22                  believe.

1 MS. GEPHARDT: All right.

2 CHAIRPERSON MILLER: Ms. Gephardt?

3 MS. GEPHARDT: Thank you. Board  
4 Members, you have heard here today through the  
5 testimony of Mr. Adejunmobi that on October  
6 25, 2012, he and a team of two other people  
7 went to Wah Sing Restaurant to conduct an  
8 audit of their books and records for the year  
9 of 2011.

10 Mr. Adejunmobi testified that the  
11 establishment was not able to produce any  
12 records, any guest checks or any receipts on-  
13 site or anything for 2011.

14 Furthermore, Mr. Adejunmobi  
15 testified that they waited for the bookkeeper  
16 for, approximately, two hours and that person  
17 never showed up. He left his card and said if  
18 the person does show up or if you could,  
19 please, give that individual my contact  
20 information, I can be reached, so that I can  
21 be given the necessary records.

22 However, as you heard, that person

1 never contacted him. And since then, he has  
2 had no other communication from Wah Sing with  
3 the production of their books and records for  
4 2011. And for that matter, any kind of  
5 records indicating that this licensee has kept  
6 and maintained upon the premises for a period  
7 of three years any records that include  
8 invoices, delivery slips which would  
9 adequately and fully reflect all purchases,  
10 sales and deliveries of all alcoholic  
11 beverages.

12 This is simply a case of he said/  
13 she said. However, in this case, Mr.  
14 Adejunmobi and the Investigative Team, I  
15 believe, have no reason to make up a story as  
16 to what they observed that day. They go out  
17 on audits all the time. This is what they do.  
18 And if they are presented with the proper  
19 documentation and proper paperwork, then they  
20 take the information back and check it off  
21 their list.

22 In this case, there is no reason

1 to believe that Mr. Adejunmobi or the other  
2 members of the team would have anything  
3 against the restaurant to lead them to  
4 fabricate a story as to what happened that  
5 day.

6 And, therefore, the Government  
7 would ask that you find that this licensee has  
8 violated the statute and that a -- that which  
9 would include Charge 1 which would be failing  
10 to maintain and keep upon the premises for a  
11 period of three years, records, which include  
12 invoices and delivery slips, which adequately  
13 reflect all purchases, sales and deliveries  
14 and, therefore, the Government would argue  
15 that you fine the licensee a total of \$3,000.  
16 Thank you.

17 CHAIRPERSON MILLER: Okay. Okay.  
18 Ms. Gephardt, the last thing you said was that  
19 you are asking the Board to find that the  
20 licensee violated Charge 1 and should be fined  
21 a penalty of \$3,000?

22 MS. GEPHARDT: That's correct.

1                   CHAIRPERSON MILLER: Okay. All  
2 right. Do you have a closing argument?

3                   INTERPRETER CHEN: He doesn't have  
4 anything to say.

5                   CHAIRPERSON MILLER: Okay. All  
6 right. The evidence is in the record, so  
7 that's not required. All right. Thank you.  
8 Okay. So I am now going to close the record,  
9 that all the testimony and evidence has been  
10 put in.

11                   Do the parties wish to file  
12 proposed findings of fact and conclusions of  
13 law or waive their right to do so?

14                   MS. GEPHARDT: No, thank you. I  
15 waive our right to do so.

16                   CHAIRPERSON MILLER: And do you  
17 understand the question?

18                   MR. WONG: No.

19                   CHAIRPERSON MILLER: Okay.  
20 Parties have the right to file a written  
21 brief, based on the evidence that has been  
22 presented in the record, which would suggest

1 to the Board how we should find the facts in  
2 the case and how we should draw conclusions of  
3 law.

4 It's like a legal brief. It is a  
5 right you have. Very few parties do that at  
6 these kind of cases. It is just like an  
7 argument again, based on the evidence.  
8 Otherwise, the Board has the evidence and will  
9 make those findings itself without any  
10 suggestions from the parties.

11 And the Government has decided not  
12 to do that.

13 INTERPRETER CHEN: He said he is  
14 going to waive that right. But the only  
15 question he has is is it possible to lower  
16 that amount?

17 CHAIRPERSON MILLER: Lower the  
18 amount? He would ask that we have a lower  
19 fine?

20 MR. WONG: Yeah.

21 CHAIRPERSON MILLER: Correct? Ms.  
22 Gephardt has made a suggestion to the Board.



1       It is not necessarily what the Board will do.  
2       It's her suggestion of \$3,000 and we  
3       understand your suggestion is if a penalty is  
4       assessed against you, that it be lower. Is  
5       that right?

6                   MR. WONG: Yes.

7                   CHAIRPERSON MILLER: Okay.

8                   MR. WONG: Absolutely.

9                   CHAIRPERSON MILLER: Okay. So  
10       that completes this case. And I'm just going  
11       to have the Board vote on our considering the  
12       case in closed session.

13                   Under the Open Meetings Act, the  
14       Board is allowed to deliberate on  
15       adjudications in closed session, but we just  
16       need to take a vote on that.

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

1       our counsel on Case No. 12-AUD-00067, Wah Sing  
2       Restaurant, per Section 405(b)(4) of the Open  
3       Meetings Amendment Act of 2010, and  
4       deliberating upon this case for the reasons  
5       cited in Section 405(b)(13) of the Open  
6       Meetings Amendment Act of 2010.

7                   Is there a second?

8                   MEMBER SILVERSTEIN:   Second.

9                   CHAIRPERSON MILLER:   Mr.

10       Silverstein has seconded the motion.  I'll now  
11       take a roll call vote on the motion.

12                   Mr. Brooks?

13                   MEMBER BROOKS:   I agree.

14                   CHAIRPERSON MILLER:   Mr. Alberti?

15                   MEMBER ALBERTI:   I agree.

16                   CHAIRPERSON MILLER:   Ms. Miller  
17       agrees.

18                   Mr. Silverstein?

19                   MEMBER SILVERSTEIN:   I agree.

20                   CHAIRPERSON MILLER:   Okay.  It  
21       appears that the motion has passed.  I hereby  
22       give notice that the ABC Board will hold a

1 closed meeting in the ABC Board conference  
2 room today, time permitting, pursuant to the  
3 Open Meetings Amendment Act of 2010 and issue  
4 an order within 90 days.

5 So thank you very much. That  
6 concludes this case, unless you have any  
7 questions.

8 MS. GEPHARDT: No.

9 MR. WONG: I don't have any  
10 questions.

11 CHAIRPERSON MILLER: Okay. Thank  
12 you.

13 (Whereupon, the Status Hearing in  
14 the above-entitled matter was concluded at  
15 11:29 a.m.)

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