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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

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IN THE MATTER OF: :  
Minnesota Store, LLC, :  
t/a Minnesota Store :  
3728 Minnesota Ave NE : Show Cause Hearing  
License # 95245 : Case # 15-CMP-00584  
Retailer Class B :  
ANC-7F :

- - - - -X

Wednesday, February 3, 2016

Whereupon, the above-referenced matter came on for  
hearing at the Alcoholic Beverage Control Board, Reeves  
Center, 2000 14th Street, NW, Suite 400S, Washington, D.C.  
20009.

1 CHAIRPERSON:

2 DONOVAN ANDERSON, Presiding

3

4 BOARD MEMBERS:

5 RUTHANNE MILLER

6 NICK ALBERTI

7 MICHAEL SILVERSTEIN

8 JAMES SHORT

9

10 ALSO PRESENT:

11 FERNANDO RIVERO, Assistant Attorney General

12 On behalf of the District of Columbia

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I N D E X  
- - -

WITNESS: INVESTIGATOR VERNON LEFTWICH	PAGE
DIRECT EXAMINATION BY MR. RIVERO	6
CROSS-EXAMINATION BY MS. MILLER	11

- - -  
E X H I B I T S  
- - -

GOVERNMENT EXHIBIT	PAGE
No.      DESCRIPTION	ADMITTED
1          Investigative Report	8

1 PROCEEDINGS

2 CHAIRMAN ANDERSON: All right. The next case on  
3 our show cause hearing calendar is case number 15-CMP-00584,  
4 Minnesota Store, license number 95245. Will the parties  
5 please approach?

6 MR. RIVERO: Good morning, board members.  
7 Fernando Rivero for the District of Columbia.

8 CHAIRMAN ANDERSON: And I see that this case was  
9 scheduled for 10:00 hearing, and the licensee is not here.  
10 Mr. Rivero, do you have any idea was there any issue with  
11 service in this matter?

12 MR. RIVERO: I don't know, but I would ask  
13 whether the board can quickly look in its records and see if  
14 there's proof of service, which I believe there is.

15 MS. MILLER: Yeah.

16 MR. ALBERTI: He was served.

17 MS. MILLER: Served November 2.

18 CHAIRMAN ANDERSON: All right. Since the party's  
19 not here, is the government prepared to move forward ex  
20 parte?

21 MR. RIVERO: Yes. The government is prepared to  
22 move forward at this time.

1           CHAIRMAN ANDERSON:  Would the government wish to  
2   make an opening statement?

3           MR. RIVERO:  Yes.  Good morning, board members.  
4   We're here today in the show cause matter of Minnesota Store  
5   located at 3738 Minnesota Avenue North East in Washington,  
6   D.C.  The show cause notice issued in this matter concerns  
7   the charges that the licensee, one, permitted the  
8   establishment to operate without the presence of a  
9   board-approved manager; and, two, provide a go-cup with the  
10  sale of an alcoholic beverage in violation of DC Official  
11  Code 25-741, and also 25-701.  It's the District's belief  
12  that a preponderance of the evidence based on the testimony  
13  of an investigator will show that these violations took  
14  place on August 25, 2015.

15           Indulgence?

16           So I will call Investigator Vernon Leftwich at  
17  this time to the stand.

18           CHAIRMAN ANDERSON:  Yes.

19           Can you raise your right hand, please?  Do you  
20  swear or affirm to tell the truth and nothing but the truth?

21           THE WITNESS:  Yes.

22           CHAIRMAN ANDERSON:  All right.  Thank you.

1 Your witness.

2 MR. RIVERO: Thank you.

3 DIRECT EXAMINATION

4 BY MR. RIVERO:

5 Q. Good morning.

6 A. Good morning.

7 Q. Can you please state and spell your name for the  
8 record?

9 A. Investigator Vernon Leftwich, Vernon,  
10 V-E-R-N-O-N, Leftwich, L-E-F-T-W-I-C-H.

11 Q. And you're an investigator for whom,  
12 Mr. Leftwich?

13 A. The Alcoholic Beverage Regulation Administration.

14 Q. And what are your duties as an ABRA investigator?

15 A. As an ABRA investigator, our duties are to  
16 conduct investigations and inspections for licensed ABC  
17 establishments in the District of Columbia.

18 Q. Thank you. Are you familiar with Minnesota  
19 Store?

20 A. Yes.

21 Q. And how are you familiar with that?

22 A. Conducted a compliance check on August 25, 2015.

1 Q. Okay. And what happened on August 25, 2015? Did  
2 you go to the establishment?

3 A. Yes.

4 Q. Okay. And what did you do when you got there?

5 A. Once I entered into the establishment, I went to  
6 the back of the establishment, obtained two 25 fluid ounce  
7 lemon-ade-rita, took that to the counter. And at the time  
8 of the initial purchase I asked the cashier for a cup. And  
9 at that time he directed me to a cooler with Styrofoam cups  
10 prefilled with ice where I --

11 Q. What did you do next?

12 A. I obtained one Styrofoam cup that had ice in it,  
13 went to the register, purchased the alcoholic beverage  
14 along with the cup, and exited the establishment.

15 Q. Okay. And you did this in an undercover  
16 capacity, correct?

17 A. Yes.

18 Q. Okay. I'm going to go ahead and show you what's  
19 marked as Exhibit 1, copies of which I have available to  
20 the board.

21 CHAIRMAN ANDERSON: We do have a copy. Thank  
22 you. We have --

1 MS. MILLER: We do?

2 CHAIRMAN ANDERSON: We do.

3 BY MR. RIVERO:

4 Q. Tell me what that looks like to you.

5 A. This is a copy of the report that I submitted  
6 after the investigation, after the compliance check.

7 Q. Go ahead and take a minute to just flip through  
8 and make sure that that is a complete copy of the report  
9 that you submitted.

10 A. Yes, sir, this is a complete copy of the report,  
11 along with the exhibits that I submitted.

12 Q. Would you say this is an accurate copy of the  
13 report you drafted?

14 A. Yes.

15 MR. RIVERO: The government would move Exhibit 1  
16 into evidence at this time.

17 CHAIRMAN ANDERSON: So moved.

18 (Exhibit 1 was admitted into evidence.)

19 MR. RIVERO: Thank you.

20 BY MR. RIVERO:

21 Q. Okay. I'm going to return the report to you, and  
22 I want you to take a look at page two, the top paragraph

1 there. What were you writing about in that paragraph?

2 Tell me about that.

3 A. In this portion of the report, I was speaking in  
4 regards to Investigator Shawn Townsend who delivered the  
5 citation that I wrote in regards to the sale of the  
6 go-cups, what his findings were once he went to serve the  
7 citation, that there was no ABC manager or owner on duty,  
8 which was on Wednesday, August the 26th, 2015.

9 Q. Okay. And how did you know this?

10 A. I was informed by Investigator Townsend once he  
11 returned with the citation that I had wrote. He was unable  
12 to issue the citation.

13 Q. Okay. Because there was no ABC manager or owner  
14 on the premises?

15 A. Yes.

16 Q. Okay. I want to go ahead and turn your attention  
17 to what you call Exhibit 1 in your report. What is that?

18 A. This is a photograph taken of the two 25 fluid  
19 ounce Lemon-Ade-Rita, as well as the Styrofoam cup.

20 Q. Who took that photograph?

21 A. I took this photograph.

22 Q. Is this an accurate copy of the photograph you

1 took?

2 A. Yes, sir.

3 Q. I want to turn your attention to what you call  
4 Exhibit 2 in your report. What is that?

5 A. This is a evidence transmittal sheet, which was  
6 given to Chief Jackson ensuring that I turned in the  
7 evidence which I obtained on August the 25th.

8 Q. And this is an accurate copy of the transmittal  
9 sheet that you completed?

10 A. Yes, sir.

11 Q. I want to turn your attention to what you call  
12 Exhibit 3 in your report. What is that?

13 A. Exhibit 3 is a copy of the receipt, which was  
14 given to me from the cashier on August 25th showing the  
15 purchase of the Bud Lite -- here it says apple, but it was  
16 a Lemon-Ade-Rita, as well as the bag purchased, and the cup  
17 purchase of 50 cents.

18 Q. And this is an accurate copy of the receipt that  
19 you received that day?

20 A. Yes.

21 Q. Is Exhibit 4 the citation you mentioned?

22 A. Yes.

1 Q. This is a copy of that?

2 A. Yes.

3 MR. RIVERO: No further questions.

4 CHAIRMAN ANDERSON: Does the board have any  
5 questions?

6 Yes, Ms. Miller.

7 CROSS-EXAMINATION

8 BY MS. MILLER:

9 Q. Good morning. Was the ABC manager on duty when  
10 you were there, or the owner?

11 A. As I was acting in an undercover capacity, I  
12 was -- I didn't request that a ABC manager --

13 MS. MILLER: Right. Thank you.

14 That's all. Thank you.

15 CHAIRMAN ANDERSON: Any other questions?

16 (No response heard.)

17 CHAIRMAN ANDERSON: Does the government have any  
18 other witnesses?

19 MR. RIVERO: No. If there are no more questions  
20 for the witness, the witness can --

21 CHAIRMAN ANDERSON: We don't have any questions  
22 for the witness. So if the government has no further

1 questions for the witness --

2 MR. RIVERO: No further questions for the

3 witness.

4 MR. SILVERSTEIN: I suggest you dismiss him.

5 CHAIRMAN ANDERSON: So the witness is dismissed.

6 Well, I did say that. That's why I asked.

7 MR. SILVERSTEIN: Okay. I didn't hear you.

8 CHAIRMAN ANDERSON: I did ask.

9 MR. RIVERO: The government has no further  
10 witnesses or exhibits to present.

11 CHAIRMAN ANDERSON: What documents -- the only  
12 document that was introduced into evidence is Exhibit 1. Is  
13 that -- that's the only document that the government wishes  
14 to --

15 MR. RIVERO: That's it.

16 CHAIRMAN ANDERSON: All right. Thank you. Does  
17 the government wish to make a closing statement?

18 MR. RIVERO: Yes. We believe that the government  
19 has introduced witness testimony from the ABRA investigator  
20 and the exhibit, the investigator's report that shows by a  
21 preponderance of the evidence that the licensee permitted  
22 the operation of the establishment without a board approved

1 manager on the date that Investigator Townsend went to  
2 deliver the citation, and that the citation was properly  
3 delivered for another violation, selling a go-cup when  
4 you're not supposed to do that according to the law.

5 The government recommends a fine of \$600 for each  
6 charge. Thank you.

7 CHAIRMAN ANDERSON: And just a question. The  
8 range is \$500 to 750. So why did the government only -- why  
9 is the government requesting \$600, rather than the maximum?  
10 I'm just asking the question.

11 MR. RIVERO: The government is not obligated to  
12 request the maximum. There's no rule that states that. The  
13 figure is within that range, and that is the figure that the  
14 government is recommending. It's obviously a  
15 recommendation, but it's within the range.

16 CHAIRMAN ANDERSON: No. I was just asking --

17 MR. RIVERO: Yeah.

18 CHAIRMAN ANDERSON: -- why did the government  
19 choose that figure, rather than either the higher or the  
20 lower number. That was all. That's fine.

21 MR. RIVERO: Right. I understand that it's  
22 always difficult to be somewhere in the middle there, and

1 it's always easy to explain, well, it's the lowest number,  
2 or it's the highest number. But there's also all those  
3 numbers in between, and that's what the government is  
4 recommending.

5 CHAIRMAN ANDERSON: Does the board wish to make a  
6 ruling from the desk, or does the board wish to take this  
7 under advisement?

8 MR. ALBERTI: I think we should take it under  
9 advisement.

10 CHAIRMAN ANDERSON: All right. Then as  
11 Chairperson of the Alcoholic Beverage Control Board for the  
12 District of Columbia and in accordance with DC Code Section  
13 2574(b) of the Open Meetings Act, I move that ABC Board hold  
14 a closed meeting for the purpose of seeking legal advice  
15 from our counsel on case number 15-CMP-00584, Minnesota  
16 Store, pursuant to DC Official Code Section 2574(b)(4) of  
17 the Open Meetings Act and deliberation upon case number  
18 15-CMP-00584, Minnesota Store for the reasons cited in DC  
19 Official Code Section 2574(b)(13) of the Open Meetings Act.

20 Is there a second?

21 MR. ALBERTI: Second.

22 CHAIRMAN ANDERSON: Mr. Alberti has seconded the

1 motion. I will now take a roll call vote on the motion  
2 before us now that it has been seconded.

3 Ms. Miller?

4 MS. MILLER: Approve.

5 CHAIRMAN ANDERSON: Mr. Alberti?

6 MR. ALBERTI: I approve.

7 CHAIRMAN ANDERSON: Mr. Short?

8 MR. SHORT: I approve.

9 CHAIRMAN ANDERSON: Mr. Silverstein?

10 MR. SILVERSTEIN: Approve.

11 CHAIRMAN ANDERSON: And Mr. Anderson, I approve.

12 As it appears that the motion has passed five,  
13 zero, I hereby give notice that the ABC Board will recess  
14 this proceeding to hold a closed meeting in the ABC Board  
15 conference room pursuant to Section 2574(b) of the Open  
16 Meetings Act. Thank you.

17 Are the parties here for Stadium?

18 (No response heard.)

19 CHAIRMAN ANDERSON: All right. That case is  
20 scheduled for 11:00. So the board will be in recess until  
21 out 11:00 hearing. Thank you.

22 (Whereupon, the above-titled matter concluded.)

<b>1</b>	<b>B</b>	<b>DC</b> 5:10	<b>hearing</b> 4:3,9
<b>1</b> 7:19 8:15,18	<b>back</b> 7:6	<b>DIRECT</b> 6:3	<b>I</b>
<b>10:00</b> 4:9	<b>based</b> 5:12	<b>directed</b> 7:9	<b>ice</b> 7:10,12
<b>15-CMP-00584</b> 4:3	<b>belief</b> 5:11	<b>District</b> 4:7 6:17	<b>idea</b> 4:10
<b>2</b>	<b>beverage</b> 5:10 6:13 7:13	<b>District's</b> 5:11	<b>Indulgence</b> 5:15
<b>2</b> 4:17	<b>board</b> 4:6,13 5:3 7:20	<b>drafted</b> 8:13	<b>initial</b> 7:8
<b>2015</b> 5:14 6:22 7:1	<b>board-approved</b> 5:9	<b>duties</b> 6:14,15	<b>inspections</b> 6:16
<b>25</b> 5:14 6:22 7:1,6	<b>C</b>	<b>E</b>	<b>investigation</b> 8:6
<b>25-701</b> 5:11	<b>calendar</b> 4:3	<b>East</b> 5:5	<b>investigations</b> 6:16
<b>25-741</b> 5:11	<b>call</b> 5:16	<b>entered</b> 7:5	<b>investigator</b> 5:13,16 6:9,11,14,15
<b>3</b>	<b>capacity</b> 7:16	<b>establishment</b> 5:8 7:2, 5,6,14	<b>issue</b> 4:10
<b>3738</b> 5:5	<b>case</b> 4:2,3,8	<b>establishments</b> 6:17	<b>issued</b> 5:6
<b>9</b>	<b>cashier</b> 7:8	<b>evidence</b> 5:12 8:16,18	<b>L</b>
<b>95245</b> 4:4	<b>CHAIRMAN</b> 4:2,8,18 5:1,18,22 7:21 8:2,17	<b>EXAMINATION</b> 6:3	<b>L-e-f-t-w-i-c-h</b> 6:10
<b>A</b>	<b>charges</b> 5:7	<b>exhibit</b> 7:19 8:15,18	<b>Leftwich</b> 5:16 6:9,10,12
<b>ABC</b> 6:16	<b>check</b> 6:22 8:6	<b>exhibits</b> 8:11	<b>lemon-ade-rita</b> 7:7
<b>ABRA</b> 6:14,15	<b>Code</b> 5:11	<b>exited</b> 7:14	<b>license</b> 4:4
<b>accurate</b> 8:12	<b>Columbia</b> 4:7 6:17	<b>F</b>	<b>licensed</b> 6:16
<b>Administration</b> 6:13	<b>complete</b> 8:8,10	<b>familiar</b> 6:18,21	<b>licensee</b> 4:9 5:7
<b>admitted</b> 8:18	<b>compliance</b> 6:22 8:6	<b>Fernando</b> 4:7	<b>located</b> 5:5
<b>affirm</b> 5:20	<b>concerns</b> 5:6	<b>flip</b> 8:7	<b>M</b>
<b>ahead</b> 7:18 8:7	<b>conduct</b> 6:16	<b>fluid</b> 7:6	<b>make</b> 5:2 8:8
<b>ALBERTI</b> 4:16	<b>Conducted</b> 6:22	<b>forward</b> 4:19,22	<b>manager</b> 5:9
<b>alcoholic</b> 5:10 6:13 7:13	<b>cooler</b> 7:9	<b>G</b>	<b>marked</b> 7:19
<b>ANDERSON</b> 4:2,8,18 5:1,18,22 7:21 8:2,17	<b>copies</b> 7:19	<b>go-cup</b> 5:9	<b>matter</b> 4:11 5:4,6
<b>approach</b> 4:5	<b>copy</b> 7:21 8:5,8,10,12	<b>Good</b> 4:6 5:3 6:5,6	<b>members</b> 4:6 5:3
<b>August</b> 5:14 6:22 7:1	<b>correct</b> 7:16	<b>government</b> 4:19,21 5:1 8:15	<b>MILLER</b> 4:15,17 8:1
<b>Avenue</b> 5:5	<b>counter</b> 7:7	<b>H</b>	<b>Minnesota</b> 4:4 5:4,5 6:18
	<b>cup</b> 7:8,12,14	<b>hand</b> 5:19	<b>minute</b> 8:7
	<b>cups</b> 7:9	<b>happened</b> 7:1	<b>morning</b> 4:6 5:3 6:5,6
	<b>D</b>		<b>move</b> 4:19,22 8:15
	<b>D.C.</b> 5:6		

<b>moved</b> 8:17	<b>record</b> 6:8	
<hr/>	<b>records</b> 4:13	<hr/> <b>V</b> <hr/>
<b>N</b>	<b>register</b> 7:13	<b>V-e-r-n-o-n</b> 6:10
<hr/>	<b>Regulation</b> 6:13	<b>Vernon</b> 5:16 6:9
<b>North</b> 5:5	<b>report</b> 8:5,8,10,13,21	<b>violation</b> 5:10
<b>notice</b> 5:6	<b>return</b> 8:21	<b>violations</b> 5:13
<b>November</b> 4:17	<b>Rivero</b> 4:6,7,10,12,21 5:3 6:2,4 8:3,15,19,20	<hr/> <b>W</b> <hr/>
<b>number</b> 4:3,4	<hr/>	
<b>O</b>	<b>S</b>	<b>Washington</b> 5:5
<hr/>	<hr/>	
<b>obtained</b> 7:6,12	<b>sale</b> 5:10	
<b>Official</b> 5:10	<b>scheduled</b> 4:9	
<b>opening</b> 5:2	<b>served</b> 4:16,17	
<b>operate</b> 5:8	<b>service</b> 4:11,14	
<b>ounce</b> 7:6	<b>show</b> 4:3 5:4,6,13 7:18	
<hr/>	<b>sir</b> 8:10	
<b>P</b>	<b>spell</b> 6:7	
<hr/>	<b>stand</b> 5:17	
<b>paragraph</b> 8:22	<b>state</b> 6:7	
<b>parte</b> 4:20	<b>statement</b> 5:2	
<b>parties</b> 4:4	<b>Store</b> 4:4 5:4 6:19	
<b>party's</b> 4:18	<b>Styrofoam</b> 7:9,12	
<b>permitted</b> 5:7	<b>submitted</b> 8:5,9,11	
<b>place</b> 5:14	<b>swear</b> 5:20	
<b>prefilled</b> 7:10	<hr/> <b>T</b> <hr/>	
<b>prepared</b> 4:19,21	<b>testimony</b> 5:12	
<b>preponderance</b> 5:12	<b>time</b> 4:22 5:17 7:7,9 8:16	
<b>presence</b> 5:8	<b>today</b> 5:4	
<b>proof</b> 4:14	<b>top</b> 8:22	
<b>provide</b> 5:9	<b>truth</b> 5:20	
<b>purchase</b> 7:8	<hr/> <b>U</b> <hr/>	
<b>purchased</b> 7:13	<hr/>	
<hr/>	<b>undercover</b> 7:15	
<b>Q</b>		
<hr/>		
<b>quickly</b> 4:13		
<hr/>		
<b>R</b>		
<hr/>		
<b>raise</b> 5:19		