

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
3 ALCOHOLIC BEVERAGE CONTROL BOARD
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6 IN THE MATTER OF: :
7 HSR, Inc.: Case # 15-CMP-00788: :
8 t/a New Dodge Market :
9 3620 14th Street, NW :
10 License #99565 :
11 Retailer B :
12 ANC 1A :
13 No ABC Manager on Duty :
14 Failed to Post License :

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16 Wednesday, October 5, 2016

17
18 Whereupon, the above-referenced matter
19 came on for hearing at the Alcoholic Beverage
20 Control Board, Reeves Center, 2000 14th Street,
21 N.W., Suite 400S, Washington, D.C. 20009.

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3 BOARD MEMBERS PRESENT

4 NICK ALBERTI, BOARD MEMBER

5 JAMES SHORT, BOARD MEMBER

6 MIKE SILVERSTEIN, BOARD MEMBER

7 RUTHANNE MILLER, BOARD MEMBER

8

9 ALSO PRESENT:

10 CHRISTY GEPHARDT

11 JOHN SUERO

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

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3 CHAIRPERSON ANDERSON: We now move to our
4 show cause hearing, case #15-CMP-00788, New Dodge
5 Market, license #99565. Will the parties please
6 approach and identify themselves for the record,
7 please?

8 MS. GEPHARDT: Christy Gephardt, here on
9 behalf of the office of the attorney general.

10 CHAIRPERSON ANDERSON: I see that the
11 licensee is not here. Ms. Gephardt, do you know
12 whether or not the licensee was given notice
13 regarding this hearing?

14 MS. GEPHARDT: To my knowledge, the licensee
15 was given notice. I've not had any communication
16 with the licensee, so that's what I know.

17 CHAIRPERSON ANDERSON: I didn't hear what you
18 said last.

19 MS. GEPHARDT: I was just saying that I
20 haven't had any communication so I have no
21 knowledge of whether he's coming or not, but, I'm
22 assuming not coming.

1 CHAIRPERSON ANDERSON: Is the government
2 prepared to move to proceed with this proceeding
3 ex partite?

4 MS. GEPHARDT: Yes, the government is
5 prepared to proceed.

6 CHAIRPERSON ANDERSON: Does the government
7 wish to make an opening statement?

8 MS. GEPHARDT: I'm just going to go right
9 into the testimony.

10 CHAIRPERSON ANDERSON: All right, does the
11 government wish to call its first witness?

12 MS. GEPHARDT: Yes, the government calls John
13 Suero, investigator.

14 CHAIRPERSON ANDERSON: Mr. Suero, Do you
15 swear or affirm to tell the truth and nothing but
16 the truth?

17 MR. SUERO: I do.

18 CHAIRPERSON ANDERSON: Thank you. You may
19 have a seat, please.

20 MS. GEPHARDT: All right, Mr. Suero, can you
21 please spell your name?

22 MR. SUERO: My last name is spelled S as in

1 Sam, U-E-R-O, my first name is John, common
2 spelling.

3 MS. GEPHARDT: Okay, and where do you work?

4 MR. SUERO: I work at the Alcoholic Beverage
5 Regulation Administration.

6 MS. GEPHARDT: And what is your title?

7 MR. SUERO: Supervisory investigator.

8 MS. GEPHARDT: Okay. And how long have you
9 worked for ABRA?

10 MR. SUERO: Just over three years.

11 MS. GEPHARDT: Okay. And how long have you
12 been an investigator for ABRA?

13 MR. SUERO: For that amount of time.

14 MS. GEPHARDT: Okay. And what would you say
15 the primary responsibilities are of an
16 investigator?

17 MR. SUERO: To conduct regulatory inspections
18 and investigations of ABC licensed establishments
19 here in the District of Columbia.

20 MS. GEPHARDT: Okay. Before I proceed, I
21 would like to make note that in the report the
22 time that the inspector went into the

1 establishment is 11:45 a.m., it's actually 10:45
2 a.m., so I would ask that the investigative
3 report be amended please.

4 MS. GEPHARDT: A.m.

5 CHAIRPERSON ANDERSON: Can I have a copy? Go
6 ahead. Ms. Gephardt, you're trying to make a
7 correction in the record?

8 MS. GEPHARDT: I'm trying to correct the
9 record. I asked for a correction to the record,
10 that the time that the investigator entered the
11 establishment was at actually 10:45 a.m., not
12 11:45 a.m. I ask that that correction be noted.

13 CHAIRPERSON ANDERSON: Okay, the record is
14 corrected that the investigative report that
15 reports 11:45 a.m. is changed to 10:45 a.m.

16 MS. GEPHARDT: That's correct.

17 CHAIRPERSON ANDERSON: All right, thank you.

18 MS. GEPHARDT: Okay. Investigator, did you
19 have occasion to visit New Dodge Market on
20 Tuesday, October 20th (sic), 2016, at
21 approximately 10:45 a.m.?

22 MR. SUERO: I did.

1 MS. GEPHARDT: And what was the purpose of
2 your visit that day?

3 MR. SUERO: My purpose was to conduct a
4 regulatory inspection. I had a preprinted
5 regulatory inspection form of the business at
6 that address.

7 MS. GEPHARDT: Okay, and what happened when
8 you entered the establishment?

9 MR. SUERO: I identified myself to the female
10 clerk behind the glass enclosure.

11 MS. GEPHARDT: Okay. And, what did you say
12 to the female clerk?

13 MR. SUERO: I advised her that the purpose of
14 my visit was to conduct a regulatory inspection
15 and I asked her if she was the owner or the ABC
16 manager.

17 MS. GEPHARDT: Okay, and what was her
18 response?

19 MR. SUERO: She advised that she was neither
20 and that the ABC manager would be on his way,
21 that he was coming from Virginia.

22 MS. GEPHARDT: Okay, and at any point during

1 your visit did the ABC manager show up?

2 MR. SUERO: No, ma'am, he did not.

3 MS. GEPHARDT: Okay. Did you ever have
4 occasion to speak to the ABC manager?

5 MR. SUERO: While I was there the female
6 clerk used her cell phone to call the individual
7 and we spoke on the phone briefly.

8 MS. GEPHARDT: And what did that individual -
9 - I'm sorry, go ahead.

10 MR. SUERO: He identified himself as the ABC
11 manager explaining that he was in Virginia and
12 was running a little late and that he was on the
13 way.

14 MS. GEPHARDT: Okay. So, when you were there
15 was there any other violations that you found?

16 MR. SUERO: As part of the regulatory
17 inspection I asked for the alcohol license so I
18 could look at it. She walked with me to the end
19 of the store and on the right of the store at the
20 very last end of the wall there was a large,
21 framed frame with multiple documents inside of
22 it. One of them was an ABC.

1 MS. GEPHARDT: Okay, and what did you notice
2 about the license?

3 MR. SUERO: When she took it down I noticed
4 that the information on the license was not the
5 same as the preprinted form that I had for the
6 inspection, and I asked her about that situation
7 while I was there. I was advised that there had
8 been a change in ownership and that change in
9 ownership was not reflected in that particular
10 ABC license, which I realized then it was the
11 incorrect license that we had on file for that
12 business.

13 MS. GEPHARDT: Was the license posted in a
14 conspicuous location?

15 MR. SUERO: It was in -- it was all the way
16 in the back of the store up on the wall, so it
17 was posted, it was just the wrong license.

18 MS. GEPHARDT: Just the wrong license?

19 MR. SUERO: Yes.

20 MS. MILLER: I'm sorry, I couldn't hear.

21 MR. SUERO: I apologize. It was posted in
22 the back in the frame as it should be, it was

1 just the incorrect license.

2 MS. GEPHARDT: Okay. Thank you. And when you
3 brought this to her attention, did she -- what
4 was her response about fixing the situation?

5 MR. SUERO: She didn't really know, or
6 appeared not to understand, what that really
7 meant and said that I would have to speak to the
8 manager, who, obviously, was not there.

9 MS. GEPHARDT: Okay. And do you know if that
10 has been corrected since? Have you been back to
11 this establishment?

12 MR. SUERO: I have, actually, some time
13 later, and it had been corrected.

14 MS. GEPHARDT: Okay. Was there any other
15 violations that you noticed at the time when you
16 were there?

17 MR. SUERO: No, only the no ABC manager and
18 the proper license not being posted. That was
19 it.

20 MS. GEPHARDT: That was it? Okay. All
21 right. That's all I have. Thank you.

22 CHAIRPERSON ANDERSON: Do we have any other

1 questions by any board members? Yes, Mr.
2 Alberti.

3 MR. ALBERTI: Thank you for your report. I
4 just want to note for the record that, am I
5 correct that a warning was issued for the license
6 -- the incorrect license being posted?

7 MR. SUERO: That's correct.

8 MR. ALBERTI: Okay, thank you.

9 MR. SUERO: Yes, sir.

10 CHAIRPERSON ANDERSON: Yes, Ms. Miller.

11 MS. MILLER: How long were you at the
12 establishment?

13 MR. SUERO: My regulatory inspection form
14 says that I was there from 10:45 a.m. until 11:15
15 a.m.

16 MS. MILLER: Okay. Thank you.

17 MR. SUERO: Yes, ma'am.

18 CHAIRPERSON ANDERSON: That all?

19 MS. MILLER: That's it.

20 CHAIRPERSON ANDERSON: Are there any other
21 questions by any other board members? Ms.
22 Gephardt do you have any follow-up questions

1 based on the questions that the board has asked?

2 MS. GEPHARDT: No, I do not, thank you.

3 CHAIRPERSON ANDERSON: All right. Thank you,
4 Mr. Suero, you can step down. Do you have any
5 other witnesses, Ms. Gephardt?

6 MS. GEPHARDT: No, I do not.

7 CHAIRPERSON ANDERSON: Does the government
8 wish? -- I'm sorry, does the government rest?

9 MS. GEPHARDT: Yes, the government rests.

10 CHAIRPERSON ANDERSON: Does the government
11 wish to make a closing statement?

12 MS. GEPHARDT: Briefly. Board members,
13 you've heard that today on October the 20th
14 (sic), 2016, at approximately 11:45 -- excuse me,
15 10:45 a.m., investigator John Suero entered the
16 establishment and asked to speak to an ABC
17 manager. He was told there was no ABC manager on
18 site. He even spoke to the ABC manager who was
19 supposed to be there, via telephone, and he said
20 that he was running late and he was not there, in
21 fact he was in Virginia. You also heard
22 Investigator Suero testify to the fact that there

1 was the incorrect license posted on the wall and,
2 therefore, we have proven those two charges and
3 as you have mentioned, Mr. Anderson, the second
4 charge is a warning, so that one is not being --
5 whatever -- that one is not being considered at
6 this point. The other one is the first one and
7 the government would recommend a fine of \$350.

8 CHAIRPERSON ANDERSON: All right, thank you.
9 Does the government wish to do proposed findings
10 of fact and conclusions of law?

11 MS. GEPHARDT: I would love to. I'm just
12 kidding. For the record, I'm kidding.

13 CHAIRPERSON ANDERSON: All right.

14 MS. GEPHARDT: No, no, no, thank you.

15 CHAIRPERSON ANDERSON: All right. As
16 chairperson of the Alcoholic Beverage Control
17 Board of the District of Columbia, in accordance
18 with D.C. section 2574 (b) of the Open Meetings
19 Act, I move that the ABC Board hold a closed
20 meeting for the purpose of seeking legal advice
21 from our counsel on Case #15-CMP-00788, New Dodge
22 Market, pursuant to D.C. official code section

1 2574 (b) (4) of the Open Meetings Amendment Act
2 and deliberating upon case #15-CMP-00788, New
3 Dodge Market, for the reasons cited in D.C.
4 official code section 2574 B13 of the Open
5 Meetings Act. Is there a second?

6 MR. SHORT: Second.

7 CHAIRPERSON ANDERSON: Mr. Short has seconded
8 the motion. I will now take a roll call vote on
9 the motion before us now that it has been
10 seconded: Ms. Miller?

11 MS. MILLER: I agree.

12 CHAIRPERSON ANDERSON: Mr. Alberti?

13 MR. ALBERTI: I agree.

14 CHAIRPERSON ANDERSON: Mr. Short?

15 MR. SHORT: I agree.

16 CHAIRPERSON ANDERSON: Mr. Silverstein?

17 MR. SILVERSTEIN: I agree.

18 CHAIRPERSON ANDERSON: Mr. Anderson? I
19 agree. As it appears that the motion has passed
20 5-zero-zero, I hereby give notice that the ABC
21 Board will recess these proceedings to hold a
22 closed meeting in the ABC Board Conference Room

1 today pursuant to section 2574 B of the Open
2 Meetings Act. Thank you and we are on recess
3 until our 1:30 hearing.

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5 (Whereupon, the above-entitled matter was
6 concluded.)

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