

1 BOARD'S AGENT:

2 DONOVAN ANDERSON, Presiding

3

4 Board MEMBERS

5 RUTHANNE MILLER

6 NICK ALBERTI

7 MIKE SILVERSTEIN

8 JAMES SHORT

9

10 ALSO PRESENT:

11 FERNANDO RIVERO

12 PEARL KENG

13 KEVIN PUENTE

14 BELAINESH KEBEDE

15

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

2 SHOW CAUSE HEARING (STATUS)

3 [ON THE RECORD 12:20]

4 CHAIRPERSON ANDERSON: We're back on the
5 record. The next case is #15-CMP-00589, the
6 Rendezvous Lounge, license #14272. Will the
7 parties please approach and identify themselves
8 for the record please.

9 MR. RIVERO: Good afternoon, Board
10 members, Fernando Rivero for the District of
11 Columbia.

12 CHAIRPERSON ANDERSON: Good afternoon,
13 Mr. Rivero.

14 MS. KENG: Good afternoon, Board members,
15 Pearl Keng for the District of Columbia.

16 CHAIRPERSON ANDERSON: Good afternoon,
17 Ms. Keng.

18 MS. KEBEDE: Belainesh Kebede.

19 CHAIRPERSON ANDERSON: I'm sorry Ms. --
20 can you spell your name also for me so I can
21 write it down?

22 MS. KEBEDE: Belainesh, B-E-L-A-I-N-E-S-

1 H, last name Kebede. K-E-B-E-D-E.

2 CHAIRPERSON ANDERSON: K-E-D-E-D?

3 MS. KEBEDE: K-E-B-E-D-E.

4 CHAIRPERSON ANDERSON: Okay. Kebede?

5 MS. KEBEDE: Yes.

6 CHAIRPERSON ANDERSON: Okay, Mr. Rivero,
7 who's handling this case?

8 MR. RIVERO: Ms. Keng.

9 CHAIRPERSON ANDERSON: Okay, all right.
10 Ms. Keng, do you have any preliminary matters in
11 this case?

12 MS. KENG: No, there is not.

13 CHAIRPERSON ANDERSON: All right. Does
14 the government wish to make an opening statement?

15 MS. KENG: Yes, please. Good afternoon,
16 Board members. We're here today in the show
17 cause matter of Belainesh Kebede trading as
18 Rendezvous Lounge located at 2226 18th Street
19 Northwest. The show cause notice issued in this
20 matter concerns a charge of the licensee
21 permitted the establishment to operate without
22 the presence of a Board-approved manager in

1 violation of D.C. Official Code Section 25-701.
2 It is the District's belief that the
3 preponderance of the evidence based on the
4 testimony of our witness, Investigator Puente,
5 will show that the licensee permitted the
6 establishment to operate without the presence of
7 a Board-approved ABC manager on the afternoon of
8 Sunday, September 13, 2015. Thank you.

9 CHAIRPERSON ANDERSON: Thank you. Ms.
10 Kebede?

11 MS. KEBEDE: Yes?

12 CHAIRPERSON ANDERSON: Do you wish to
13 make an opening statement?

14 MS. KEBEDE: No.

15 CHAIRPERSON ANDERSON: No? All right.
16 Does the government have any witnesses?

17 MS. KEBEDE: Yes, Mr. Chairman, we would
18 like to call Investigator Kevin Puente, please.

19 CHAIRPERSON ANDERSON: Good afternoon,
20 Mr. Puente. How are you?

21 MR. PUENTE: Pretty good, sir.

22 CHAIRPERSON ANDERSON: Could you swear --

1 do you swear or affirm to tell the truth and
2 nothing but the truth?

3 MR. PUENTE: Yes, sir.

4 CHAIRPERSON ANDERSON: Thank you. Your
5 witness.

6 MS. KENG: Thank you. What is your name,
7 please?

8 MR. PUENTE: Kevin Puente.

9 MS. KENG: Could you spell that for the
10 record, please.

11 MR. PUENTE: Kevin, K-E-V-I-N, Puente, P-
12 U-E-N-T-E.

13 MS. KENG: Thank you. What is your
14 occupation?

15 MR. PUENTE: I'm an investigator.

16 MS. KENG: And who is your employer?

17 MR. PUENTE: The Alcoholic Beverage
18 Regulation Administration.

19 MS. KENG: And how long have you worked
20 for the Alcoholic Beverage Regulation
21 Administration?

22 MR. PUENTE: Since July 27, 2015.

1 MS. KENG: What are your duties as an
2 ABRA investigator?

3 MR. PUENTE: I conduct inspections and
4 investigations of licensed ABC establishments
5 throughout the District of Columbia.

6 MS. KENG: And that would include the
7 licensee of Rendezvous Lounge?

8 MR. PUENTE: Yes.

9 MS. KENG: Are you familiar with the
10 Rendezvous Lounge?

11 MR. PUENTE: Yes, I am.

12 MS. KENG: How?

13 MR. PUENTE: On Sunday, September 13,
14 2015, myself and two other investigators were
15 monitoring establishments at Adams Morgan for the
16 Adams Morgan Day Festival.

17 MS. KENG: I'm sorry, what date was that?

18 MR. PUENTE: Sunday, September 13, 2015.

19 MS. KENG: On September 13, 2015, did you
20 visit Rendezvous Lounge?

21 MR. PUENTE: Yes, I did.

22 MS. KENG: And what was the purpose of

1 the visit again, please?

2 MR. PUENTE: To check for compliance of
3 the establishment.

4 MS. KENG: What did you do once you
5 arrived at the establishment?

6 MR. PUENTE: I arrived and I entered the
7 establishment, I went upstairs and identified
8 myself to a bartender on the second floor and
9 asked to speak to an owner or ABC manager.

10 MS. KENG: And what did the bartender
11 tell you?

12 MR. PUENTE: The bartender stated that
13 the ABC manag -- the owner was actually
14 downstairs at the bar.

15 MS. KENG: And did you ask if there was
16 an ABC manager?

17 MR. PUENTE: Yes.

18 MS. KENG: And the answer?

19 MR. PUENTE: He said, no, the owner
20 should have been downstairs.

21 MS. KENG: Okay. What did you -- what
22 did you observe while you spoke to the bartender

1 on the second floor?

2 MR. PUENTE: I observed several people
3 upstairs that went back downstairs and there was
4 no one behind the bar and the bartender from
5 upstairs came down and said that the owner was at
6 the store.

7 MS. KENG: Let me take you back upstairs
8 again, I'm sorry. Did you observe anything while
9 you were on the second floor?

10 MR. PUENTE: Oh yes, there was a patron,
11 I can't recall how many patrons, but there was
12 one or two consuming an alcoholic beverage out of
13 a beer can and some beverage that appeared to be
14 out of a glass also.

15 MS. KENG: Okay. I am going to show you
16 a document that's being marked as Government
17 Exhibit A. I'm handing a copy also to Ms.
18 Kebede. What does that appear to be?

19 MR. PUENTE: My investigative report.

20 MS. KENG: And when you say your
21 investigative report, who prepared this report?

22 MR. PUENTE: I did.

1 MS. KENG: And could you take a second to
2 look through it and let me know if that's an
3 accurate copy of the ABRA report you wrote.

4 MR. PUENTE: Yes, it is.

5 MS. KENG: Okay, I want to take you back
6 to the question about when you were on the second
7 floor and you had asked the bartender about the
8 manager being on the premises [inaudible 6:35]
9 you said that the bartender told you the owner
10 was not there and that there was no manager?

11 MR. PUENTE: He stated the owner was
12 downstairs and there was no ABC manager.

13 MS. KENG: And what did you do after he
14 told you that?

15 MR. PUENTE: I went downstairs to look
16 for the owner and I didn't see no one. There
17 were several patrons at the bar consuming
18 alcoholic beverages, and the bartender from
19 upstairs came down and said that the owner was at
20 the store.

21 MS. KENG: And when the bartender told
22 you that she was at the store, what did you

1 respond or do?

2 MR. PUENTE: I advised him that there had
3 to be an ABC manager or owner present during the
4 licensed hours of sale and I started to conduct a
5 regulatory inspection.

6 MS. KENG: Okay. Continue on. What
7 happened as you were doing your investigation?

8 MR. PUENTE: As I was doing the
9 regulatory inspection, the owner, Ms. Kebede,
10 walked into the front door approximately five
11 minutes later at 2:35.

12 MS. KENG: Okay, so the owner returned to
13 the premises while you were doing your
14 inspection?

15 MR. PUENTE: Yes.

16 MS. KENG: And what happened then?

17 MR. PUENTE: I advised her that the
18 establishment was in violation for not having an
19 ABC manager or owner during the licensed hours of
20 sale. She stated to me that she was outside.
21 And I stated that there had to be someone inside
22 with the sale of alcohol going on. Then she

1 stated that -- I'm quoting her -- "we should be
2 held prisoners while we work and can't go
3 outside?" I advised her that you have to have an
4 ABC manager or owner present, again.

5 MS. KENG: And then what happened after
6 that?

7 MR. PUENTE: I concluded the regulatory
8 inspection. I advised her of the violation and
9 left.

10 MS. KENG: One moment please. I'd like
11 to move the report, the investigative report,
12 into evidence please.

13 CHAIRPERSON ANDERSON: Do you have any
14 objection ma'am? Did you understand what was --

15 MS. KENG: Then it is marked as
16 Government Exhibit A.

17 CHAIRPERSON ANDERSON: Do you understand
18 she wants -- she wants this document you have in
19 front of you -- she wants that to be moved to be
20 admitted as part of her evidence? Do you have
21 any objection?

22 MS. KEBEDE: No.

1 CHAIRPERSON ANDERSON: Okay, so moved.

2 MS. KENG: And, I'm sorry, so after you
3 spoke with the owner, Mrs. Kebede, did you say
4 you left the premises after that?

5 MR. PUENTE: Yes.

6 MS. KENG: All right, thank you. No
7 further questions.

8 CHAIRPERSON ANDERSON: Do you have any
9 questions for the investigator, ma'am?

10 MS. KEBEDE: No, I don't have any
11 questions.

12 CHAIRPERSON ANDERSON: I'm sorry, you say
13 you don't have any questions for him? Based on -
14 -

15 MS. KEBEDE: My question is how come he
16 don't give me a warning, because it was like five
17 minutes.

18 CHAIRPERSON ANDERSON: All right, hold --

19 MS. KEBEDE: There is no --

20 CHAIRPERSON ANDERSON: Hold on -- hold on
21 one minute. At this stage of the proceeding the
22 government asked the witness questions, so based

1 on his report and the testimony that he provided,
2 you now have an opportunity to ask him questions.
3 So, whatever questions you want to ask him based
4 on what he just testified the report, you can ask
5 him those questions. If you don't have any
6 questions --

7 MS. KEBEDE: I know.

8 CHAIRPERSON ANDERSON: Okay.

9 MS. KEBEDE: When I leave there he didn't
10 even write the license number yet, so if I was
11 not there the whole time of course it's a
12 violation, but just only five minutes I was next
13 door. So, how come you don't give me like a
14 warning? It's not in your training or something?
15 My first time violation?

16 MR. PUENTE: The regulation for no ABC
17 manager doesn't require a mandatory warning.

18 MS. KEBEDE: Even five minutes? Like I
19 said I was a prisoner, I cannot go next door or I
20 cannot go out? Or I cannot check anything?

21 CHAIRPERSON ANDERSON: Do you have any
22 other questions you want to ask him ma'am?

1 MS. KEBEDE: That's all. How come he
2 don't give me a warning, like it's my first time
3 violation?

4 CHAIRPERSON ANDERSON: You're asking him.

5 MS. KEBEDE: Yeah, that's the only
6 question I have based on the --

7 CHAIRPERSON ANDERSON: And he has
8 answered the question, so you don't -- you don't
9 have any other questions for him?

10 MS. KEBEDE: No, I don't.

11 CHAIRPERSON ANDERSON: Do we have any
12 questions of the Board of the witness?

13 MR. ALBERTI: Mr. Puente, thank you for
14 your report. Just, real quick, so --

15 CHAIRPERSON ANDERSON: You're not free --
16 I'm the one to continue --

17 MR. PUENTE: I don't want to screw it up.

18 CHAIRPERSON ANDERSON: Go ahead.

19 MR. ALBERTI: Yeah he knows that. So, the
20 bartender, you reviewed testimony that the
21 bartender told you that the owner was at the
22 store.

1 MR. PUENTE: Yes.

2 MR. ALBERTI: Do you have any knowledge
3 of what he meant by that?

4 MR. PUENTE: I assumed initially when I
5 got there, where the owner or ABC manager was, he
6 stated that the owner was downstairs. We went
7 downstairs. He came down, then stated that she
8 was at the store and that's all he said.

9 MR. ALBERTI: So, you have no knowledge
10 of which store that might have been?

11 MR. PUENTE: No sir. No sir, no
12 knowledge.

13 MR. ALBERTI: Okay, thank you, I have no
14 further questions.

15 CHAIRPERSON ANDERSON: Any other
16 questions by any of the Board members? Hearing
17 none, thank you very much for your testimony, Mr.
18 Puente. You're free to -- you can step down.
19 Does the government have any other witnesses?

20 MS. KENG: No, sir.

21 CHAIRPERSON ANDERSON: Does the
22 government rest?

1 MS. KENG: Yes.

2 CHAIRPERSON ANDERSON: Ms. Kebede, now
3 this is your opportunity to make your case. And
4 so since you're representing yourself, one of the
5 things I'll ask you to do is can you raise your
6 right hand please? Do you swear or affirm to
7 tell us -- to tell the truth and nothing but the
8 truth?

9 MS. KEBEDE: Yes, I do.

10 CHAIRPERSON ANDERSON: All right. So,
11 can -- how do you -- the government has presented
12 its case. How do you plan to defend yourself in
13 this matter, ma'am?

14 MS. KEBEDE: Just to defend myself that I
15 deserve a second chance or warning because it's
16 my first violation, that's all.

17 CHAIRPERSON ANDERSON: Can you be a
18 little bit more? I mean, you need to give us
19 some explanation. The government stated that an
20 investigator came to your establishment, you were
21 not there and so he gave you a ticket. So, do
22 you have any -- in presenting your case -- I mean

1 whether the Board.

2 MS. KEBEDE: Yeah, I admit I was not
3 there, just only five minutes. He didn't even
4 finish writing the license number, so in that
5 case, [inaudible 13:06].

6 CHAIRPERSON ANDERSON: You're speaking to
7 us, I can't hear you, that's what I'm saying.
8 You're defending yourself so in order to present
9 your case you're trying to give the Board an
10 explanation why you shouldn't get a ticket.

11 MS. KEBEDE: I am explaining that it was
12 just five minutes and I was next door, like
13 [inaudible 13:27] and when I came there he didn't
14 even finish writing the license number, so I'm
15 just asking whether he can give me a warning.

16 CHAIRPERSON ANDERSON: Do you have any
17 questions of the licensee?

18 MS. KENG: No, Mr. Chairman.

19 CHAIRPERSON ANDERSON: Does the Board,
20 does any Board members have any questions?

21 MR. ALBERTI: May I?

22 CHAIRPERSON ANDERSON: Go ahead, Mr.

1 Alberti.

2 MR. ALBERTI: Ms. Kebede I'm just
3 curious. You said you were next door?

4 MS. KEBEDE: Yes, I was at the store.

5 MR. ALBERTI: You were at the store?
6 What store is next door?

7 MS. KEBEDE: It's what is the name, Whole
8 Foods or something -- it's next door and I just -
9 - I went there --

10 MR. ALBERTI: Whole Foods?

11 MS. KEBEDE: I forget the name of the
12 store.

13 MR. ALBERTI: All right. And why were
14 you there?

15 MS. KEBEDE: Yeah, I was there.

16 MR. ALBERTI: Why?

17 MS. KEBEDE: To ask for change for bring
18 the change.

19 MR. ALBERTI: Okay, thank you. No
20 further questions.

21 CHAIRPERSON ANDERSON: Yes, Mr. Short.

22 MR. SHORT: Good afternoon, Ms. Kebede.

1 How long have you had this business?

2 MS. KEBEDE: Twenty-six years.

3 MR. SHORT: Twenty-six years?

4 MS. KEBEDE: Yes.

5 MR. SHORT: Great. Have you ever had a
6 violation previous to this for not having an ABC
7 licensed --

8 MS. KEBEDE: No.

9 MR. SHORT: Are you sure?

10 MS. KEBEDE: For the manager license?
11 Yeah.

12 MR. SHORT: Yeah. Okay, I'm looking at
13 our records and it shows that on July the 5th of
14 2012 you were cited in case #12-CMP-00301 -- no
15 ABC manager. And you paid a fine of \$250.

16 MS. KEBEDE: I don't remember that.

17 MR. SHORT: You've owned it for 26 years
18 and you can't remember that?

19 MS. KEBEDE: Almost three years, I don't
20 remember that.

21 MR. SHORT: Okay. Let me ask you this,
22 what are you doing different now that you won't

1 have this violation anymore?

2 MS. KEBEDE: I'm always there and the
3 bartender also there has a license, manager's
4 license.

5 MR. SHORT: So, if you happen to have an
6 emergency, and the bartender has an emergency,
7 what would take place?

8 MS. KEBEDE: I would close and go home.

9 MR. SHORT: Okay, so how many -- how many
10 employees do you have that have an ABC license --
11 or manager's license?

12 MS. KEBEDE: Only one.

13 MR. SHORT: How many employees do you
14 have?

15 MS. KEBEDE: Three. I mean two.

16 MR. SHORT: That's all I have, Mr. Chair.

17 CHAIRPERSON ANDERSON: Ms. Miller, you
18 have questions?

19 MS. MILLER: Yes. Good afternoon. I
20 want to ask you were you aware of this law that
21 says you have to have an ABC manager on duty when
22 the store is open? I mean, when the

1 establishment is open?

2 MS. KEBEDE: Yes.

3 MS. MILLER: Okay, so that's not a
4 surprise. Did you have the bartender licensed as
5 an ABC manager before this event?

6 MS. KEBEDE: Yeah.

7 MS. MILLER: But the bartender wasn't
8 there either?

9 MS. KEBEDE: Yeah, the one who has the
10 license, he wasn't there.

11 MS. MILLER: Okay. Do you think it would
12 be helpful to have another person licensed?

13 MS. KEBEDE: Sorry?

14 MS. MILLER: Do you think it would be
15 helpful to have another employee licensed as an
16 ABC manager?

17 MS. KEBEDE: All the time there's --

18 MS. MILLER: Okay.

19 MS. KEBEDE: [inaudible

20 MS. MILLER: And you're asking the Board
21 to use its discretion to give you a lower penalty
22 or a warning because you were only gone five

1 minutes?

2 MS. KEBEDE: Yeah, five minutes.

3 MS. MILLER: Okay. But you don't
4 remember the other "no ABC manager on duty"
5 violation.

6 MS. KEBEDE: I do not remember it.

7 MS. MILLER: Okay.

8 MS. KEBEDE: I'm sorry.

9 MS. MILLER: Okay, okay, yeah that's what
10 our records show, anyway. All right. Thank you.

11 CHAIRPERSON ANDERSON: Well let me ask if
12 you wish to ask -- do you have anything else --
13 I'm going to give you an opportunity to ask her
14 questions, or another Board question. Oh, you go
15 first. I'm sorry, do you have any questions based
16 on the questions by the Board?

17 MS. KENG: No, Mr. Chairman.

18 CHAIRPERSON ANDERSON: All right, do you
19 have -- I don't think you have anything that you
20 want to ask based on the questions. Is there
21 anything that you want to add based on the
22 questions that the Board members just asked you?

1 No? Does the government wish to make a closing
2 statement?

3 MS. KENG: Yes, Mr. Chairman. We believe
4 that the government has introduced witnessed
5 testimony from the ABRA investigator, the
6 supports, by a preponderance of the evidence,
7 that the licensee permitted the operation of the
8 establishment without a Board-approved ABC
9 manager or without her, the owner, being on the
10 premises on the afternoon of Sunday, September
11 13, 2015, and even though it's not a requirement
12 that the government prove that alcoholic
13 beverages were being sold or consumed, the
14 investigator's testimony did provide his
15 observation that this was the case. The owner
16 may have been away for five minutes, which is a
17 small amount of time, except that the law does
18 not provide for an exception for a few minutes or
19 a small amount of time regardless of how many
20 minutes, so the government recommends a penalty
21 consistent with D.C. Code 5025. Thank you.

22 CHAIRPERSON ANDERSON: No specific

1 amount?

2 MS. KENG: No specific amount.

3 CHAIRPERSON ANDERSON: Ms. Kebede, some
4 final thoughts?

5 MS. KEBEDE: Sorry?

6 CHAIRPERSON ANDERSON: Any final thoughts
7 and if you --

8 MS. KEBEDE: No.

9 CHAIRPERSON ANDERSON: So based on -- you
10 want us to make a decision based on what you
11 stated before and based on what the government
12 stated? I'm sorry?

13 MS. KEBEDE: No.

14 CHAIRPERSON ANDERSON: All right, okay.
15 Do the parties wish to file, may propose findings
16 of fact and conclusion of law or waive their
17 right to do so?

18 MS. KENG: The government waives, Mr.
19 Chairman.

20 CHAIRPERSON ANDERSON: What that means,
21 Ms. Kebede, is do you wish to write anything or
22 do you just want us to make a decision based on

1 what's presented today?

2 MS. KEBEDE: I don't understand.

3 MR. RIVERO: Indulgence, please sir.

4 CHAIRPERSON ANDERSON: Thank you, Mr.
5 Rivero. So, what I'm asking is that do you want
6 to write something or do you want the Board to
7 make a decision based on the testimony that was
8 issued today.

9 MS. KEBEDE: I'll wait for the Board to
10 make a decision.

11 CHAIRPERSON ANDERSON: Okay, thank you.

12 MR. RIVERO: She waives.

13 MS. KEBEDE: Thank you.

14 CHAIRPERSON ANDERSON: All right. Thank
15 you. The Board will issue a decision in 90 days
16 and as chairperson of the Alcoholic Beverage
17 Control Board for the District of Columbia and in
18 accordance with D.C. section 405 of the Open
19 Meetings Amendment Act of 2010 I move that the
20 ABC Board hold a closed meeting for the purpose
21 of seeking legal advice from our counsel on Case
22 #15-CMP-00589, the Rendezvous Lounge, per section

1 405 B4 of the Open Meetings Amendment Act of 2010
2 and deliberating upon case #15-CMP-00589 the
3 Rendezvous Lounge for the reasons cited in
4 section 405 B13 of the Open Meetings Amendment
5 Act of 2010. Is there a second?

6 MR. SHORT: Second.

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

11 MR. SILVERSTEIN: I agree.

12 CHAIRPERSON ANDERSON: Mr. Short?

13 MR. SHORT: I agree.

14 CHAIRPERSON ANDERSON: Mr. Alberti?

15 MR. ALBERTI: I agree.

16 CHAIRPERSON ANDERSON: Ms. Miller?

17 MS. MILLER: I agree.

18 CHAIRPERSON ANDERSON: Mr. Anderson? I
19 agree. It appears that the motion has passed I
20 hereby give notice that the ABC Board will hold a
21 closed meeting in the ABC Board Conference Room
22 pursuant to the Open Meetings Amendment Act of

1 2010 and issue an order within 90 days. Thank
2 you very much. We'll issue an order within 90
3 days. Thank you all for being here today. The
4 Board is in recess until our afternoon calendar
5 at 1:30. All right, thank you.

6 (Whereupon at 12:43 p.m. the above-
7 entitled matter was concluded.)

8