DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF:             :
                              :
Himalayan Heritage, Inc.      :
t/a Himalayan Heritage        : Show Cause
2305 18th Street, NW          : Hearing
Retailer CR - ANC-1C          :
License No. 79577             :
Case# 12-AUD-00048            :
                              :
(Failed to File Quarterly     :
Statements-2nd Quarter 2012)  :
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May 29, 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, OAG

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

2 (10:23 a.m.)

3 CHAIRPERSON MILLER: Okay. The

4 next case on our calendar is Case No. 12-AUD-

5 00048, Himalaya Heritage located at 2305 18th

6 Street, N.W., License No. 79577 in ANC-1C.

7 And this is a Show Cause Hearing.

8 All right. Do you want me to do the whole

9 thing over? Okay. Let me do it over.

10 I'm calling case No. 12-AUD-00048,

11 Himalayan Heritage located at 2305 18th

12 Street, N.W., License No. 79577 in ANC-1C.

13 This is a Show Cause Hearing.

14 Would the parties introduce

15 themselves for the record?

16 MS. GEPHARDT: Good morning. This

17 is Chrissy Gephardt on behalf of the Office of

18 the Attorney General.

19 CHAIRPERSON MILLER: Okay. Is

20 anybody here on behalf of the licensee,

21 Himalayan Heritage? This case was called for

22 a 10:00 hearing. It is 10:24.

1 Ms. Gephardt, have you heard
2 anything from the --
3 MS. GEPHARDT: No, I have not.
4 CHAIRPERSON MILLER: -- licensee?
5 MS. GEPHARDT: I have not heard
6 anything.
7 CHAIRPERSON MILLER: Okay. Are
8 you ready to proceed ex parte?
9 MS. GEPHARDT: Yes.
10 CHAIRPERSON MILLER: Okay. Then
11 we are ready to hear you.
12 MS. GEPHARDT: Okay. I'll just
13 make a brief opening statement. Board
14 Members, in this case, the charge is failing
15 to file with the Board the quarterly statement
16 for the second quarter of 2012.
17 You will hear from Monica Clark,
18 ABRA's Compliance Analyst, regarding the
19 licensee's second quarter statements for 2012.
20 Ms. Clark will state that as of
21 July 31, 2012, the second quarter statement
22 had not been filed. She will explain the

1 process by which ABRA determines that the
2 statement has been timely filed and through
3 that process she was able to determine that
4 the licensee's filing was received almost a
5 month late.
6 CHAIRPERSON MILLER: Okay.
7 MS. GEPHARDT: The Government
8 would now like to call Ms. Monica Clark to the
9 witness stand.
10 CHAIRPERSON MILLER: Good morning.
11 Whereupon,
12 MONICA CLARK
13 was called as a witness by Counsel for the
14 Government, and having been first duly sworn,
15 assumed the witness stand and was examined and
16 testified as follows:
17 CHAIRPERSON MILLER: Thank you.
18 DIRECT EXAMINATION
19 MS. GEPHARDT: Good morning, Ms.
20 Clark.
21 MS. CLARK: Good morning.
22 MS. GEPHARDT: Can you, please,

1 state your name and spell it for the record?
2 MS. CLARK: My name is Monica
3 Clark, M-O-N-I-C-A C-L-A-R-K.
4 MS. GEPHARDT: And, Ms. Clark,
5 where do you work?
6 MS. CLARK: I work for the
7 Alcoholic Beverage Regulation Administration.
8 MS. GEPHARDT: Okay. And what is
9 your title?
10 MS. CLARK: My title is compliance
11 analyst.
12 MS. GEPHARDT: And how long have
13 you been a compliance analyst with ABRA?
14 MS. CLARK: I have been a
15 compliance analyst for about 10 months.
16 MS. GEPHARDT: Okay. And what are
17 your responsibilities as a compliance analyst?
18 MS. CLARK: Oh, I receive and
19 review and analyze quarterly statements
20 received from licensees of ABRA and assist
21 with audit matters.
22 MS. GEPHARDT: Okay. And how does

1 ABRA maintain records related to quarterly
2 statement filings?
3 MS. CLARK: ABRA has an Excel
4 database that we maintain the data from those
5 quarterly statements.
6 MS. GEPHARDT: Okay. And how is
7 the information typically received for
8 quarterly statements?
9 MS. CLARK: The information is
10 received several different methods. It's
11 either received by -- electronically, where it
12 is filed on-line. It can be received as an
13 attachment to an email. It can be faxed in or
14 it can be mailed or brought in in person.
15 MS. GEPHARDT: Okay. And can you
16 briefly explain what the electronic system is?
17 You said by email, but then there was another
18 way that it could be submitted?
19 MS. CLARK: Yes. There is an on-
20 line submission process where the licensee
21 would go to the ABRA website and click on to
22 the on-line submission. At that point, they

1 would receive a screen where you enter the
2 data, required data and once you enter all the
3 required data, then you submit the form.
4 At that point, the form or a copy
5 of the form will come to ABRA and also a copy
6 will come -- will go to the individual
7 submitting that information.
8 MS. GEPHARDT: And does the form
9 that is submitted to ABRA and also sent to the
10 individual, does it state the date and time
11 that the report was received?
12 MS. CLARK: Yes, it does.
13 MS. GEPHARDT: Okay. Are you
14 familiar with a licensee by the name of
15 Himalayan Heritage?
16 MS. CLARK: Yes.
17 MS. GEPHARDT: Okay. And I want
18 to draw your attention to the quarterly
19 statement filing period for the second quarter
20 of 2012. What date are those filings due?
21 MS. CLARK: That would be -- the
22 second quarter would be due by the end of July

1 the 30th or the 31st of July.
2 MS. GEPHARDT: Okay. And is there
3 a grace period?
4 MS. CLARK: No, we don't have an
5 established grace period.
6 MS. GEPHARDT: Okay. Do you know
7 if Himalayan Heritage filed their 2012 second
8 quarter statement by July 31, 2012?
9 MS. CLARK: They did not file by
10 the due date.
11 MS. GEPHARDT: And what date was
12 their second quarter statement filed?
13 MS. CLARK: Their second quarter
14 statement was filed August 23rd.
15 MS. GEPHARDT: And how did they
16 file it? How do you know they filed it by
17 August 23rd?
18 MS. CLARK: It was filed by the
19 electronic system that I just described.
20 MS. GEPHARDT: Okay. And you
21 determined that by the date on the printout
22 that was sent to ABRA?

1 MS. CLARK: Yes. The printout
2 showed both the date and time that it was
3 submitted.
4 MS. GEPHARDT: Is it possible, I
5 guess, were you -- did you check to see if
6 this licensee submitted the second quarter
7 filing by other means, whether by fax, email,
8 mail or any other means in this electronic
9 system?
10 MS. CLARK: Yes, as part of my
11 responsibilities, I always check to make sure
12 that it wasn't received by any other means.
13 MS. GEPHARDT: Okay. And is
14 August 23, 2012 after the deadline of July 31,
15 2012?
16 MS. CLARK: Yes, it is.
17 MS. GEPHARDT: Okay. All right.
18 Thank you. That's all I have.
19 MS. CLARK: Thank you.
20 CHAIRPERSON MILLER: Okay.
21 MS. GEPHARDT: Oh, actually, I
22 apologize.

1 CHAIRPERSON MILLER: All right.
2 MS. GEPHARDT: The Government
3 would like to submit an exhibit showing the
4 filing, the electronic filing for this
5 licensee.
6 Ms. Clark is this a copy of what
7 you were just describing earlier?
8 MS. CLARK: Yes, it is.
9 MS. GEPHARDT: And do you see on
10 there the date of which it was filed?
11 MS. CLARK: Yes, I do. The date
12 is August 23, 2012 at 12:23 p.m.
13 MS. GEPHARDT: Okay. And how do
14 you know it is the second quarter of 2012?
15 MS. CLARK: At the top of the form
16 it also gives the quarter, the quarter is
17 listed as second, which would be April through
18 June.
19 MS. GEPHARDT: And how do you know
20 that it is for this licensee that we are
21 talking about?
22 MS. CLARK: As part of the license

1 information, it has the trade name and address
2 of -- and license number of the establishment.
3 MS. GEPHARDT: Okay. The
4 Government would ask that the Government's
5 Exhibit No. 1 be admitted into evidence.
6 CHAIRPERSON MILLER: Not hearing
7 any objection, I'll admit it into evidence as
8 Government's Exhibit No. 1.
9 (Whereupon, the document was
10 marked for identification as
11 Government Exhibit 1 and was
12 received in evidence.)
13 MS. GEPHARDT: Okay.
14 CHAIRPERSON MILLER: Thank you.
15 MS. GEPHARDT: Now I'm done with
16 this witness. Thank you.
17 CHAIRPERSON MILLER: Are there
18 Board questions? Okay. Thank you very much.
19 MS. CLARK: Okay. Thanks.
20 MS. GEPHARDT: So in closing, the
21 Government has shown through the testimony of
22 Ms. Clark that this licensee's quarterly

1 report for the second quarter of 2012 was not
2 received before the deadline of July 31, 2012.
3 Ms. Clark testified that ABRA's
4 electronic system reflects that Himalayan
5 Heritage submitted their second quarter filing
6 electronically on August 23, 2012.
7 So based on this evidence, the
8 Government has proven by the preponderance of
9 the evidence that this licensee has violated
10 Code Section 25-113(b)(2)(A) and requests that
11 the Board fine the licensee $350 for this
12 violation. Thank you.
13 CHAIRPERSON MILLER: Can I just
14 ask you if you want to say anything more about
15 why you suggested that $350?
16 MS. GEPHARDT: I would suggest
17 that the reason we chose that is within the
18 range of $250 to $500 and the Government feels
19 that that's the appropriate fine in this case.
20 CHAIRPERSON MILLER: Okay. Thank
21 you. All right. Thank you very much.
22 I'll just take a vote on closing

1 the meeting, closing deliberation for this
2 case.
3 As Chairperson of the Alcoholic
4 Beverage Control Board for the District of
5 Columbia and in accordance with Section 405 of
6 the Open Meetings Amendment Act of 2010, I
7 move that the ABC Board hold a closed meeting
8 for the purpose of seeking legal advice from
9 our counsel on Case No. 12-AUD-00048,
10 Himalayan Heritage, for the reasons cited in
11 405(b)(4) of the Open Meetings Amendment Act
12 of 2010, and deliberating upon this case for
13 the reasons cited in Section 405(b)(13) of the
14 Open Meetings Amendment Act of 2010.
15 Is there a second?
16 MEMBER BROOKS: Second.
17 CHAIRPERSON MILLER: Mr. Brooks
18 has seconded the motion. I'll take a roll
19 call vote.
20 Mr. Brooks?
21 MEMBER BROOKS: I agree.
22 CHAIRPERSON MILLER: Mr. Alberti?

1 MEMBER ALBERTI: I agree.
2 CHAIRPERSON MILLER: Ms. Miller
3 agrees.
4 Mr. Silverstein?
5 MEMBER SILVERSTEIN: I agree.
6 CHAIRPERSON MILLER: The motion
7 passes by a vote of 4-0-0.
8 I hereby give notice that the ABC
9 Board will hold a closed meeting in the ABC
10 Board conference room today pursuant to the
11 Open Meetings Amendment Act of 2010 and issue
12 an order within 90 days.
13 Okay. And I believe our next
14 hearing is at 11:00, so unless the parties are
15 all here for New York Liquors, we will recess
16 and come back at 11:00. And I don't see
17 anybody saying they are here. So that's what
18 we will do. We will recess now and come back
19 at 11:00.
20 (Whereupon, the Show Cause Hearing
21 in the above-entitled matter was concluded at
22 10:34 a.m.)

**A**

**ABC** 13:7 14:8,9
**able** 4:3
**above-entitled** 14:21
**ABRA** 4:1 5:13,20 6:1,3,21 7:5,9 8:22
**ABRA's** 3:18 12:3
**Act** 13:6,11,14 14:11
**address** 11:1
**Administration** 5:7
**admit** 11:7
**admitted** 11:5
**advice** 13:8
**agree** 13:21 14:1,5
**agrees** 14:3
**Alberti** 1:19 13:22 14:1
**Alcoholic** 1:2,13,14 5:7 13:3
**Amendment** 13:6 13:11,14 14:11
**analyst** 3:18 5:11 5:13,15,17
**analyze** 5:19
**ANC-1C** 1:8 2:6,12
**anybody** 2:20 14:17
**apologize** 9:22
**appropriate** 12:19
**April** 10:17
**assist** 5:20
**assumed** 4:15
**attachment** 6:13
**attention** 7:18
**Attorney** 2:18
**audit** 5:21
**August** 8:14,17 9:14 10:12 12:6
**a.m** 2:2 14:22

**B**

**back** 14:16,18
**based** 12:7
**behalf** 2:17,20
**believe** 14:13
**Beverage** 1:2,13,14 5:7 13:4
**Board** 1:2,14 3:13 3:15 11:18 12:11 13:4,7 14:9,10
**brief** 3:13
**briefly** 6:16
**Brooks** 1:20 13:16 13:17,20,21
**brought** 6:14
**Building** 1:14

**C**

**calendar** 2:4
**call** 4:8 13:19
**called** 2:21 4:13
**calling** 2:10
**case** 1:9 2:4,4,10,21 3:14 12:19 13:2,9 13:12
**Cause** 1:6 2:7,13 14:20
**Chairperson** 1:15 1:19 2:3,19 3:4,7 3:10 4:6,10,17 9:20 10:1 11:6,14 11:17 12:13,20 13:3,17,22 14:2,6
**charge** 3:14
**check** 9:5,11
**chose** 12:17
**Chrissy** 1:23 2:17
**cited** 13:10,13
**Clark** 3:17,20 4:8 4:12,20,21 5:2,3,4 5:6,10,14,18 6:3,9 6:19 7:12,16,21 8:4,9,13,18 9:1,10 9:16,19 10:6,8,11 10:15,22 11:19,22 12:3
**click** 6:21
**closed** 13:7 14:9
**closing** 11:20 12:22 13:1
**Code** 12:10
**Columbia** 1:1 13:5
**come** 7:5,6 14:16 14:18
**compliance** 3:18 5:10,13,15,17
**concluded** 14:21
**conference** 14:10
**Control** 1:2,13,14 13:4
**copy** 7:4,5 10:6
**counsel** 4:13 13:9
**CR** 1:8
**C-L-A-R-K** 5:3

**D**

**data** 6:4 7:2,2,3
**database** 6:4
**date** 7:10,20 8:10 8:11,21 9:2 10:10 10:11
**days** 14:12
**deadline** 9:14 12:2
**deliberating** 13:12
**deliberation** 13:1
**described** 8:19
**describing** 10:7
**determine** 4:3
**determined** 8:21
**determines** 4:1
**different** 6:10
**DIRECT** 4:18
**District** 1:1 13:4
**document** 11:9
**DONALD** 1:20
**draw** 7:18
**due** 7:20,22 8:10
**duly** 4:14
**D.C** 1:15

**E**

**earlier** 10:7
**either** 6:11
**electronic** 6:16 8:19 9:8 10:4 12:4
**electronically** 6:11 12:6
**email** 6:13,17 9:7
**enter** 7:1,2
**established** 8:5
**establishment** 11:2
**evidence** 11:5,7,12 12:7,9
**ex** 3:8
**EXAMINATION** 4:18
**examined** 4:15
**Excel** 6:3
**exhibit** 10:3 11:5,8 11:11
**explain** 3:22 6:16

**F**

**Failed** 1:10
**failing** 3:14
**familiar** 7:14
**fax** 9:7
**faxed** 6:13
**feels** 12:18
**file** 1:10 3:15 8:9 8:16
**filed** 3:22 4:2 6:12 8:7,12,14,16,18 10:10
**filing** 4:4 7:19 9:7 10:4,4 12:5
**filings** 6:2 7:20
**fine** 12:11,19
**first** 4:14
**follows** 4:16
**form** 7:3,4,5,8 10:15

**G**

**General** 2:18
**Gephardt** 1:23 2:16,17 3:1,3,5,9 3:12 4:7,19,22 5:4 5:8,12,16,22 6:6 6:15 7:8,13,17 8:2 8:6,11,15,20 9:4 9:13,17,21 10:2,9 10:13,19 11:3,13 11:15,20 12:16
**give** 14:8
**gives** 10:16
**go** 6:21 7:6
**Good** 2:16 4:10,19 4:21
**Government** 4:7 4:14 10:2 11:4,11 11:21 12:8,18
**Government's** 11:4 11:8
**grace** 8:3,5
**guess** 9:5

**H**

**hear** 3:11,17
**heard** 3:1,5
**hearing** 1:7,14 2:7 2:13,22 11:6 14:14,20
**Heritage** 1:6,6 2:5 2:11,21 7:15 8:7 12:5 13:10
**Himalaya** 2:5
**Himalayan** 1:6,6 2:11,21 7:15 8:7 12:4 13:10
**hold** 13:7 14:9

**I**

**identification** 11:10
**individual** 7:6,10
**information** 6:7,9 7:7 11:1
**introduce** 2:14
**issue** 14:11

**J**

**July** 3:21 7:22 8:1 8:8 9:14 12:2
**June** 10:18

**K**

**know** 8:6,16 10:14 10:19

**L**

**late** 4:5
**legal** 13:8
**license** 1:8 2:6,12

10:22 11:2
**licensee** 2:20 3:4 6:20 7:14 9:6 10:5,20 12:9,11
**licensees** 5:20
**licensee's** 3:19 4:4 11:22
**line** 6:20
**Liquors** 14:15
**listed** 10:17
**located** 2:5,11
**long** 5:12

**M**

**mail** 9:8
**mailed** 6:14
**maintain** 6:1,4
**marked** 11:10
**matter** 1:5 14:21
**matters** 5:21
**means** 9:7,8,12
**meeting** 1:3 13:1,7 14:9
**Meetings** 13:6,11 13:14 14:11
**Member** 1:19,20 1:21 13:16,21 14:1,5
**Members** 3:14
**met** 1:14
**methods** 6:10
**MIKE** 1:21
**Miller** 1:15,19 2:3 2:19 3:4,7,10 4:6 4:10,17 9:20 10:1 11:6,14,17 12:13 12:20 13:17,22 14:2,2,6
**Monica** 3:17 4:8,12 5:2
**month** 4:5
**months** 5:15
**morning** 2:16 4:10 4:19,21
**motion** 13:18 14:6
**move** 13:7
**M-O-N-I-C-A** 5:3

**N**

**name** 5:1,2 7:14 11:1
**New** 14:15
**NICK** 1:19
**notice** 14:8
**number** 11:2
**NW** 1:7
**N.W** 1:15 2:6,12

**O**

**OAG** 1:23
**objection** 11:7
**Office** 2:17
**Oh** 5:18 9:21
**Okay** 2:3,9,19 3:7 3:10,12 4:6 5:8,16 5:22 6:6,15 7:13 7:17 8:2,6,20 9:13 9:17,20 10:13 11:3,13,18,19 12:20 14:13
**once** 7:2
**on-line** 6:12,22
**Open** 13:6,11,14 14:11
**opening** 3:13
**order** 14:12

**P**

**part** 9:10 10:22
**parte** 3:8
**parties** 2:14 14:14
**passes** 14:7
**period** 7:19 8:3,5
**person** 6:14
**please** 4:22
**point** 6:22 7:4
**possible** 9:4
**preponderance** 12:8
**PRESENT** 1:18,22
**presiding** 1:16
**printout** 8:21 9:1
**proceed** 3:8
**process** 4:1,3 6:20
**proven** 12:8
**purpose** 13:8
**pursuant** 14:10
**P-R-O-C-E-E-D-...** 2:1
**p.m** 10:12

**Q**

**quarter** 1:10 3:16 3:19,21 7:19,22 8:8,12,13 9:6 10:14,16,16 12:1 12:5
**quarterly** 1:10 3:15 5:19 6:1,5,8 7:18 11:22
**questions** 11:18

**R**

**range** 12:18
**ready** 3:8,11
**reason** 12:17
**reasons** 13:10,13
**receive** 5:18 7:1
**received** 4:4 5:20 6:7,10,11,12 7:11 9:12 11:12 12:2
**recess** 14:15,18
**record** 2:15 5:1
**records** 6:1
**Reeves** 1:14
**reflects** 12:4
**regarding** 3:18
**Regulation** 5:7
**related** 6:1
**report** 7:11 12:1
**requests** 12:10
**required** 7:2,3
**responsibilities** 5:17 9:11
**Retailer** 1:8
**review** 5:19
**right** 2:8 9:17 10:1 12:21
**roll** 13:18
**room** 1:14 14:10
**Ruthanne** 1:15,19

**S**

**saying** 14:17
**screen** 7:1
**second** 3:16,19,21 7:19,22 8:7,12,13 9:6 10:14,17 12:1 12:5 13:15,16
**seconded** 13:18
**Section** 12:10 13:5 13:13
**see** 9:5 10:9 14:16
**seeking** 13:8
**sent** 7:9 8:22
**Show** 1:6 2:7,13 14:20
**showed** 9:2
**showing** 10:3
**shown** 11:21
**Silverstein** 1:21 14:4,5
**spell** 5:1
**stand** 4:9,15
**state** 3:20 5:1 7:10
**statement** 3:13,15 3:21 4:2 6:2 7:19 8:8,12,14
**statements** 3:19 5:19 6:5,8
**Statements-2nd** 1:10
**Street** 1:7,15 2:6,12
**submission** 6:20,22
**submit** 7:3 10:3
**submitted** 6:18 7:9 9:3,6 12:5
**submitting** 7:7
**suggest** 12:16
**suggested** 12:15
**Suite** 1:15
**sure** 9:11
**sworn** 4:14
**system** 6:16 8:19 9:9 12:4

**T**

**take** 12:22 13:18
**talking** 10:21
**testified** 4:16 12:3
**testimony** 11:21
**Thank** 4:17 9:18,19 11:14,16,18 12:12 12:20,21
**Thanks** 11:19
**thing** 2:9
**time** 7:10 9:2
**timely** 4:2
**title** 5:9,10
**today** 14:10
**top** 10:15
**trade** 11:1
**typically** 6:7
**t/a** 1:6

**V**

**violated** 12:9
**violation** 12:12
**vote** 12:22 13:19 14:7

**W**

**want** 2:8 7:17 12:14
**Washington** 1:15
**wasn't** 9:12
**way** 6:18
**website** 6:21
**witness** 4:9,13,15 11:16
**work** 5:5,6

**Y**

**York** 14:15

**Þ**

**þ** 1:4,11

**$**

**$250** 12:18
**$350** 12:11,15
**$500** 12:18

**0**

**00048** 2:5

**1**

**1** 11:5,8,11

**10** 5:15
**10:00** 2:22
**10:23** 2:2
**10:24** 2:22
**10:34** 14:22
**11:00** 14:14,16,19
**12-AUD** 2:4
**12-AUD-00048** 1:9 2:10 13:9
**12:23** 10:12
**14th** 1:14
**18th** 1:7 2:5,11

**2**

**2000** 1:14
**20009** 1:15
**2010** 13:6,12,14 14:11
**2012** 1:10 3:16,19 3:21 7:20 8:7,8 9:14,15 10:12,14 12:1,2,6
**2013** 1:12
**23** 9:14 10:12 12:6
**23rd** 8:14,17
**2305** 1:7 2:5,11
**25-113(b)(2)(A)** 12:10
**29** 1:12

**3**

**30th** 8:1
**31** 3:21 8:8 9:14 12:2
**31st** 8:1

**4**

**4-0-0** 14:7
**400S** 1:15
**405** 13:5
**405(b)(13)** 13:13
**405(b)(4)** 13:11

**7**

**79577** 1:8 2:6,12

**9**

**90** 14:12