DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD
MEETING

IN THE MATTER OF:
Yohannes A. Woldemichael:
t/a Capitol Fine Wine:
and Spirits:
415 H Street NE:
Retailer A - ANC 6C:
License No. 82981:
Case #22-CMP-00010:
(No ABC Manager on Duty):

Wednesday
July 27, 2022

The Alcoholic Beverage Control Board
met via WebEx videoconference, Chairperson
Donovan W. Anderson presiding.

PRESENT:
DONOVAN W. ANDERSON, Chairperson
BOBBY CATO, JR., Member
RAFI ALIYA CROCKETT, Member
EDWARD S. GRANDIS, Member
JENI HANSEN, Member
JAMES SHORT, JR., Member

ALSO PRESENT:
SARAH FASHBAUGH, DC ABRA Staff
KEVIN LUTES, DC OAG
INVESTIGATOR GEORGE GARCIA
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Plaintiff

1 Investigative Report 10 14
P-R-O-C-E-E-D-I-N-G-S

10:41 a.m.

CHAIRPERSON ANDERSON: The next case on our calendar is Case No. 22-CMP00010, Capitol Fine Wine and Spirits, License No. 82981.

Ms. Fashbaugh, can you please elevate the rights of the Government and licensee in this case, please.

MS. FASHBAUGH: Please stand by.

George Garcia, your rights have been elevated. Kevin Lutes, your rights have been elevated. There is no licensee.

CHAIRPERSON ANDERSON: Good morning.

Mr. Lutes, good morning, sir. Have you had any conversation with the licensee in this case, sir?

MR. LUTES: Good morning, Mr. Chairperson. So I have had conversation with the licensee on May 5th where we discussed -- where we discussed the OIC that was sent to the licensee on April 22nd. However, the licensee has not been in contact with me since despite many calls.

CHAIRPERSON ANDERSON: Okay. Thank you. All right. Good morning, everyone. So do
you have any idea what happened to the licensee?

Just a clarification. When was the last time you had a conversation with the licensee, sir?

MR. LUTES: The last time I had a conversation with the licensee was on May 5th and this was the only time I actually had a conversation with the licensee. However, I would like to mention that I did speak to -- reach out to the licensee via phone on July 12th.

CHAIRPERSON ANDERSON: All right.

Okay. Thank you.

Good morning. Can you please introduce yourself for the record by spelling and stating your name, sir, please.

MR. LUTES: Good morning, Mr. Chairman. This is -- and members of the Board. This is Assistant Attorney General Kevin Lutes, K-E-V-I-N L-U-T-E-S.

CHAIRPERSON ANDERSON: Mr. Lutes, your volume could use some correction. It's difficult to hear. I can hear you but there is -- it's not very clear. I'm trying to see what can be done.

MR. LUTES: Can you hear me now? I just edited my audio settings a little bit.

CHAIRPERSON ANDERSON: Much better,
sir. Much better.

This matter was scheduled for a show cause hearing today. The Government is able to move forward without the licensee being here.

MR. LUTES: The District is prepared to move forward.

CHAIRPERSON ANDERSON: Okay, good.

Pursuant to the D.C. Official Code Section 25447, the Board has the authority to proceed ex parte where the licensee waives the hearing or fails to appear without good cause and sufficient notice.

It's my understanding, I don't have the date, but the licensee was properly served. I don't have the date when the licensee was served. Do you know? Do you have that information, Mr. Lutes?

MR. LUTES: With the Board's indulgence, Mr. Chairman, the licensee was served on March 31st. He was served -- the service was performed directly on the licensee, Mr. Yohannes Woldemichael.

CHAIRPERSON ANDERSON: Thank you. All right. Seeing no licensee here today and having no good and sufficient cause to extend this hearing, the Board will proceed with the show
cause hearing.

Mr. Lutes, do you wish to have an opening statement?

MR. LUTES: Yes, Mr. Chairperson.

Good morning, Mr. Chairperson and members of the Board. This case is about the licensee Yohannes Woldemichael operating under the trade name Capitol Fine Wine and Spirits failing to have an ABC manager present during the hours of sale, service, and consumption of alcohol in violation of DC Code Section 25701 and 23 DCMR Section 707.1.

The evidence will show that on the afternoon of February 8, 2022, the Alcoholic Beverage Regulation Administration Investigator George Garcia arrived at and entered the establishment. Investigator Garcia requested to speak to an ABC manager or owner on duty only to be informed that neither were present.

Next the evidence will show that Investigator Garcia observed the sale of alcoholic beverages during the establishment's Board approved hours of sale and consumption of alcohol.

By this hearing's conclusion the
District will approve by a preponderance of the evidence that Capitol Fine and Wine and Spirits failed to have an owner or Board approved supervisor present on the premises during the hours of sale, service, and consumption of alcohol. Thank you.

CHAIRPERSON ANDERSON: Thank you, sir.

Does the Government have a witness they wish to call?

MR. LUTES: Yes, Mr. Chairman. The Government would like to call Investigator Garcia.

CHAIRPERSON ANDERSON: Good morning, Mr. Garcia. Can you raise your right hand, please?

Whereupon,

GEORGE GARCIA a witness, was called by Counsel for the Government and, after having been first duly sworn, assumed the witness stand and was examined and testified as follows:

CHAIRPERSON ANDERSON: Your witness, sir.

MR. LUTES: Thank you, Mr. Chairman.
DIRECT EXAMINATION

BY MR. LUTES:

Q    Could you please -- will the witness please state and spell your name for the record.


Q    And, Mr. Garcia, where do you work?

A    At the Alcoholic Beverage Regulation Administration.

Q    And is ABRA an appropriate acronym for the Alcoholic Beverage Regulation Administration?

A    Yes.

Q    And what is your position at ABRA?

A    I'm an investigator.

Q    And how long have you worked as an investigator for ABRA?

A    Approximately three years now.

Q    And what duty does that position entail?

A    We conduct inspections and investigations of ABC licensed establishments within the District of Columbia.

Q    And what type of training have you received in conducting investigations?

A    On the job training, field training,
along with computerized training.

Q Are you familiar with the establishment Capitol Fine Wine and Spirits?

A I am.

Q And how are you familiar with Capitol Fine Wine and Spirits?

A I visited the establishment on February 8th to conduct a regulatory inspection.

Q And following that regulatory inspection, did you draft an investigative report?

A I did.

MR. LUTES: With the Court's indulgence -- sorry, the Board's indulgence the District would like to share a document.

CHAIRPERSON ANDERSON: Ms. Fashbaugh, can you please allow Mr. Lutes to share his screen, please.

BY MR. LUTES:

Q Let me know if there is any difficulty in viewing the document.

A Yes, sir.

Q So, Investigator Garcia, I'm showing you a document that's marked as Plaintiff's Exhibit 1.
I'm going to scroll through the document. Can you please tell me what this is?

A     My investigative report.

(Whereupon, the document referred to was marked as Plaintiff Exhibit No. 1 for identification.)

MR. LUTES: The Court's indulgence.

I'm going to be sure that I scroll through the entirety of the document.

BY MR. LUTES:

Q     Is this a true and accurate reflection of the investigative report?

A     It is.

Q     Now, turning back to February 8, 2022, when did you enter the establishment? What time?

A     At approximately 1:50 p.m.

Q     And why did you visit the establishment?

A     To conduct a regulatory inspection.

Q     And what happened when you arrived at the establishment?

A     I identified myself to a gentleman behind the bar who was -- I'm sorry, not behind the bar, behind the cashier's who seemed to be an
employee.

Q And did the gentleman give you his name?
A Yeah. He is Mr. Dereje Getachew.
Q So you entered the establishment and you spoke with Mr. Getachew. What did you ask him?
A I asked him if there was an ABC manager present at the establishment at that moment.
Q And what did Mr. Getachew respond?
A He replied that he was the person in charge at the moment and that the owner had stepped out and should return shortly.
Q And what did you tell Mr. Getachew next?
A I advised him that I would be conducting a regulatory inspection if he was able to get the owner or ABC manager at the establishment.
Q And did Mr. Getachew attempt to contact the owner of the establishment?
A He did.
Q And what did Mr. Getachew say?
A       Mr. Getachew said that the owner
should be there in about 10 minutes.

Q       And did the owner ever arrive during
the regulatory inspection?
A       No, he did not.
Q       While you were in the establishment,
did you observe any customers?
A       Yes, two.
Q       And could you tell me what they were
doing?
A       Purchasing alcohol.
Q       And did you take any pictures of the
sale of alcohol?
A       I did.

MR. LUTES: With the Board's
indulgence I'm going to direct Mr. Garcia --

BY MR. LUTES:
Q       Mr. Garcia, I would like to direct you
to what's marked as Government Exhibit 5 as part
of your case report. Can you please tell me what
this is?
A       A picture of a patron purchasing
alcohol.
Q       And how did you take this photo?
With my government-issued phone.

And then next I'm going to direct you to what is marked as Government Exhibit 7 of your case report. Can you please tell me what this is?

That's a receipt of the alcohol purchase.

And can you please tell me how you took this picture?

On my government-issued phone.

And can you please read the date and time at which this receipt was issued.

You said the date and time? February 8, 2020 at 2:00 p.m.

And next I'm going to direct you to what is marked as Government Exhibit 1 that is part of your case report. Can you please tell me what this is?

The establishment's ABC license.

And can you please tell me, according to this license, when can the establishment sell alcohol?

Between the hours of 9:00 a.m. and 12:00 a.m.

And you visited the establishment
during the hours of the sale of alcohol?

A    Correct.

Q    And you witnessed -- and you observed customers purchasing alcohol during your regulatory visit.

A    Correct.

MR. LUTES: And now turning back to what is marked as Plaintiff's Exhibit 1, Mr. Chairperson, I understand that under District law this is already part of the record. However, I would move to confirm the case report as part of the record.

CHAIRPERSON ANDERSON: So moved, Mr. Lutes.

(Whereupon, the document marked as Plaintiff Exhibit No. 1 for identification was received into evidence.)

MR. LUTES: Thank you, Mr. Chairperson.

Investigator Garcia, thank you.

No further questions, Mr. Chairman.

Thank you.

CHAIRPERSON ANDERSON: Thank you.

Mr. Garcia, can you please spell the
name of the person that you said that you spoke
to that morning, sir?

MR. GARCIA: Sure. His first name is
Dereje, D-E-R-E-J-E. Last name Getachew, G-E-T-
A-C-H-E-W.

CHAIRPERSON ANDERSON: Thank you.

Any questions by any Board members of
the investigator? No questions by the Board
members.

Thank you, Mr. Garcia for your
testimony today. Have a great day.

MR. GARCIA: Thank you.

CHAIRPERSON ANDERSON: Mr. Lutes, do
you have another witness?

MR. LUTES: No further witnesses, Mr.
Chairman.

CHAIRPERSON ANDERSON: The Government
may rests?

MR. LUTES: With the Board's
indulgence, the District rests and would like to
present its closing arguments.

CHAIRPERSON ANDERSON: Go ahead, sir,
with the closing arguments.

MR. LUTES: Mr. Chairman and members
of the Board, much like a ship cannot leave port
without a captain, an ABRA licensed establishment
cannot serve alcohol without an ABC manager or
owner present. Without management the
establishment would be lost in times of chaos.
For that reason, the District has proven its
claims today.

You have heard these irrefutable
facts. First, that on February 8, 2022,
Investigator Garcia arrived at Capitol Fine Wine
and Liquors during the licensed hours of
operation.

Secondly, that Investigator Garcia
asked an employee to speak to an ABC manager or
owner only to be told that an ABC manager or
owner was not on the premises at that time.

Three, and lastly, Investigator Garcia
observed employees of that establishment selling
alcoholic beverages to customers.

District law requires an ABC manager
or owner to be present during all hours of sale,
service, and consumption of alcohol. Throughout
Investigator Garcia's visit neither an ABC
manager nor owner were present.

Thus, the Government has proven by a
preponderance of the evidence that the license
failed to have an owner or supervisor present on the premises during the hours of sale, service, and consumption of alcohol in violation of DC Code Section 25701 and 23 DCMR Section 707.1.

The Government request the Board to right this ship and recommends that the Board apply the appropriate penalty. Thank you.

CHAIRPERSON ANDERSON: Thank you, Mr. Lutes.

The record is now closed. The Board will issue a decision within 90 days. Hold on one minute, please.

As Chairperson of the Alcoholic Beverage Control Board for the District of Columbia in accordance with DC Office Code 2575 of the Open Meetings Act, I move that the ABC Board hold a closed meeting for the purpose of seeking legal advice from our counsel on Case No. 22-CMP-00010, Capitol Fine Wine and Spirits, pursuant to DC Official Code Section 2575(b)(4)(a) of the Open Meetings Act and deliberate on Case No. 22-CMP-00010, Capitol Fine Wine and Spirits, for the reasons cited in DC Official Code Section 2575(b)(13) of the Open Meetings Act.
Is there a second?

MEMBER SHORT: Mr. Short. I second.

CHAIRPERSON ANDERSON: Mr. Short has seconded the motion. I will now take a roll call vote on the motion now that it has been seconded.

Mr. Short.

MEMBER SHORT: Mr. Short. I agree.

CHAIRPERSON ANDERSON: Mr. Cato.

MEMBER CATO: Bobby Cato. I agree.

CHAIRPERSON ANDERSON: Ms. Crockett.

MEMBER CROCKETT: Rafi Crockett. I agree.

CHAIRPERSON ANDERSON: Ms. Hansen.

MEMBER HANSEN: Jeni Hansen. I agree.

CHAIRPERSON ANDERSON: Mr. Grandis.

MEMBER GRANDIS: Ed Grandis. I agree.

CHAIRPERSON ANDERSON: And Mr. Anderson. I agree.

As it appears that the motion has passed, I hereby give notice that the ABC Board will recess to hold a closed meeting pursuant to Section 2575 of the Open Meetings Act.

Thank you for being here today, Mr. Lutes. You have a great day. The Board will issue a decision within 90 days. Have a great
day. Thank you very much.

MR. LUTES: You do the same.

CHAIRPERSON ANDERSON: And we're at
the end of our morning calendar.
(Whereupon, the above-entitled matter went
off the record at 11:00 a.m.)
CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: Capitol Fine Wine and Spirits

Before: DC ABRA

Date: 07-27-22

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate complete record of the proceedings.

[Signature]
Court Reporter