

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
+ + + + +
MEETING

IN THE MATTER OF:

A&F, LLC
t/a L Street Market
1100 4th Street, NE
Retailer B - ANC-6C
License No. 79164
Case #14-CC-00057

Show Cause
Hearing

(Sale to Minor Violation)

December 10, 2014

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
HECTOR RODRIGUEZ, Member
JAMES SHORT, Member

ALSO PRESENT:

FERNANDO RIVERO, OAG
SHAWN TOWNSEND, ABRA Investigator

T-A-B-L-E O-F C-O-N-T-E-N-T-S

Amendment of Notice Typos: 6

Opening Statement by Government. 7

Closing Statement by Government.55

Closing Statement by Licensee.60

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
Shawn Townsend	9	12	17	24
Afework Dawit	30	50		

EXHIBITS IDENTIFIED RECEIVED

GOVERNMENT

1 - Report of Investigation 19 19

LICENSEE

1 - Dawit Narrative 49 49

2 - ID Scan Machine Invoice 49 49

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

2 (10:57 a.m.)

3 CHAIRPERSON MILLER: Okay. So the
4 next case on our calendar is actually Case No.
5 14-CC-00057, L Street Market located at 1100
6 4th Street, N.E., License No. 79164, in ANC-
7 6C. And this is a Show Cause Hearing.

8 Would you introduce yourselves for
9 the record?

10 MR. RIVERO: Fernando Rivero for
11 the District of Columbia.

12 MR. DAWIT: Afework Dawit for L
13 Street Market.

14 CHAIRPERSON MILLER: Okay. Are
15 you Mr. Dawit?

16 MR. DAWIT: Yes, ma'am.

17 CHAIRPERSON MILLER: Okay. Good.
18 Are there any preliminary issues in this case?

19 MR. RIVERO: Unfortunately, no.

20 CHAIRPERSON MILLER: Okay.

21 MR. RIVERO: We are going to
22 proceed today. There are no preliminary

1 matters and the parties are ready to move
2 forward to Show Cause Hearing.

3 CHAIRPERSON MILLER: Okay. Mr.
4 Dawit, I just want to ask you if you are
5 familiar with the proceeding for a Show Cause
6 Hearing?

7 MR. DAWIT: A little bit, Your
8 Honor.

9 CHAIRPERSON MILLER: A little bit?

10 MR. DAWIT: Yes.

11 CHAIRPERSON MILLER: All right.
12 I'm just going to summarize a little and then
13 if you have any questions, you can ask me.

14 MR. DAWIT: Sure.

15 CHAIRPERSON MILLER: The
16 Government has the burden of proof, you know,
17 with the charges that were filed against you.
18 They go first. The Government often gives an
19 opening statement that gives a summary of
20 their case. You can do that, too. It's
21 probably usually better for a layperson to do
22 it later in connection with their testimony.

1 Most likely, you will testify for yourself, I
2 assume. You don't have to, but you can.

3 And Mr. Rivero may put on a
4 witness and he will ask questions. The Board
5 can ask questions and you can ask questions of
6 the witnesses.

7 MR. DAWIT: Okay.

8 CHAIRPERSON MILLER: And then if
9 you take the stand, Mr. Rivero can ask
10 questions of you. And if you take the stand,
11 I'll put you under oath like his witnesses.
12 So he will do his case. You will do your
13 case. And then he will do closing and you can
14 do a closing, a sum up of your argument, if
15 you want. That's not required. And that's it
16 basically.

17 Okay? But feel free to ask me if
18 you have a question.

19 MR. DAWIT: Sure.

20 CHAIRPERSON MILLER: Okay. Mr.
21 Rivero?

22 MR. RIVERO: The Government would

1 like to make a motion to amend the notice to
2 correct to typos, at this time.

3 CHAIRPERSON MILLER: Amend the
4 notice to what?

5 MR. RIVERO: To correct two
6 typographical errors.

7 CHAIRPERSON MILLER: Typos, okay.
8 Okay.

9 MR. RIVERO: The first one is on
10 the first page. The address is actually 1100
11 4th Street, N.E., and the notice says N.W.,
12 that's just a typo.

13 CHAIRPERSON MILLER: Okay, yes.

14 MR. RIVERO: And then the second
15 error is on the second page under Charge 1.
16 It says "On Friday, March 14th," it's actually
17 April 14th is the date listed in the report.
18 So those are two typographical errors that I
19 move we amend as stated, at this time.

20 CHAIRPERSON MILLER: And do you
21 have an objection to --

22 MR. DAWIT: No, I don't.

1 CHAIRPERSON MILLER: Okay. All
2 right. Then those corrections will be made.
3 Okay.

4 MR. RIVERO: Thank you.

5 CHAIRPERSON MILLER: All right.

6 MR. RIVERO: The Government will
7 prove today that on April 14th ABRA
8 Investigators conducted a compliance check on
9 the establishment L Street Market located at
10 1100 4th Street, N.E., and the clerk, later
11 identified as the licensee, sold alcoholic
12 beverages to undercover minors. And that is
13 the essence of this case.

14 And the Government's witness will
15 be Investigator Townsend.

16 CHAIRPERSON MILLER: Okay. Sir,
17 do you have any brief opening remarks you want
18 to make or else you can wait until your case?

19 MR. DAWIT: Well, I can speak
20 about what happened on that day.

21 CHAIRPERSON MILLER: Okay. So
22 that's appropriate for your testimony.

1 MR. DAWIT: Yes.

2 CHAIRPERSON MILLER: And you will
3 be under oath, so you can wait until your turn
4 on that.

5 MR. DAWIT: Sure.

6 CHAIRPERSON MILLER: Okay. Mr.
7 Rivero, do you want to call your witness?

8 MR. RIVERO: Thank you. The
9 Government will call Investigator Townsend, at
10 this time.

11 CHAIRPERSON MILLER: Good morning.

12 INVESTIGATOR TOWNSEND: Good
13 morning.

14 Whereupon,

15 INVESTIGATOR SHAWN TOWNSEND
16 was called as a witness by Counsel for the
17 Government, and having been first duly sworn,
18 assumed the witness stand and was examined and
19 testified as follows:

20 INVESTIGATOR TOWNSEND: I do.

21 CHAIRPERSON MILLER: All right.

22 Thank you.

1 DIRECT EXAMINATION

2 MR. RIVERO: Good morning. Would
3 you, please, state your name?

4 INVESTIGATOR TOWNSEND: Shawn
5 Townsend, T-O-W-N-S-E-N-D.

6 MR. RIVERO: Thank you. Mr.
7 Townsend, what is your occupation?

8 INVESTIGATOR TOWNSEND: ABRA
9 Investigator.

10 MR. RIVERO: Okay. And what are
11 your duties as an ABRA Investigator?

12 INVESTIGATOR TOWNSEND: Conduct
13 regulatory inspections and investigations of
14 ABC establishments in the District.

15 MR. RIVERO: Thank you.
16 Investigator Townsend, are you familiar with
17 the establishment known as L Street Market?

18 INVESTIGATOR TOWNSEND: Yes, I am.

19 MR. RIVERO: And how are you
20 familiar with this establishment?

21 INVESTIGATOR TOWNSEND: We
22 conducted a compliance check myself and two

1 other Investigators on April 14, 2014.

2 MR. RIVERO: And why don't you
3 tell us about that? What happened?

4 INVESTIGATOR TOWNSEND: Myself and
5 Investigator Ghenene entered the establishment
6 along with two undercover minors. The two
7 minors entered after myself and the other
8 Investigator. They entered the establishment
9 and retrieved two alcoholic beverages from the
10 refrigerator in the back of the store. They
11 approached the counter and the male clerk,
12 identified as the owner, he sold two alcoholic
13 beverages. The minors purchased the alcohol
14 and exited the establishment.

15 Myself and Investigator Ghenene
16 exited the establishment as well with the
17 minors and retrieved the alcoholic beverages
18 from them. And at that point, we notified the
19 owner of the establishment that a violation
20 had occurred and he had sold alcohol to
21 minors.

22 MR. RIVERO: Okay. Can I ask you,

1 what time of the day did this compliance check
2 take place?

3 INVESTIGATOR TOWNSEND: This was
4 about 1:00 p.m.

5 MR. RIVERO: Okay. And were you
6 able to observe the minors in what you just
7 described the minors did?

8 INVESTIGATOR TOWNSEND: Yes.

9 MR. RIVERO: Okay. And what
10 alcoholic beverages did the minors select for
11 purchase?

12 INVESTIGATOR TOWNSEND: It was a
13 two pack of Miller Lite, 24 ounce cans.

14 MR. RIVERO: Okay. And who
15 advised -- how did you know that it was the
16 owner, as you say, who sold the beverages?

17 INVESTIGATOR TOWNSEND: The male
18 clerk that sold to the minors identified
19 himself with his D.C. Driver's License once we
20 notified him that a sale to minor had
21 occurred.

22 MR. RIVERO: And he identified

1 himself to whom?

2 INVESTIGATOR TOWNSEND: To myself
3 and Investigator Ghenene.

4 MR. RIVERO: No further questions,
5 at this time.

6 CHAIRPERSON MILLER: Okay. Do you
7 have any questions for the Investigator, based
8 on his testimony?

9 MR. DAWIT: Yes, Your Honor.

10 CROSS-EXAMINATION

11 MR. DAWIT: In the two -- the
12 three Investigators come into my --

13 CHAIRPERSON MILLER: Okay. No,
14 wait. I just want to tell you. You are going
15 to have a chance to tell your story.

16 MR. DAWIT: Okay.

17 CHAIRPERSON MILLER: This is a
18 chance to ask any questions to the
19 Investigator or of the Investigator.

20 MR. DAWIT: Okay. When the two
21 minors, the alleged minors that bought the
22 beer and left, the three left together and you

1 came back in five minutes and told me that I
2 sold beer to minors. And when I -- you told
3 me that, I asked for the ID that I sold, but
4 at that point you said you not going to show
5 me the ID because it is not important. And
6 you showed me the picture of the alleged minor
7 and I insisted that why we have to do that,
8 because I have to see the ID, because I
9 checked the ID properly and sold the beer.

10 So I don't know why you are so
11 adamant about not showing me the ID when I
12 asked. Of course, I consistently said that I
13 have to see it.

14 CHAIRPERSON MILLER: Okay. So the
15 question is, he has a question in there.

16 MR. RIVERO: I object.

17 CHAIRPERSON MILLER: I think the
18 question is, despite all the narrative, why
19 wouldn't you let him see, what, the ID?

20 MR. DAWIT: Yes.

21 MR. RIVERO: Yes. I think that
22 would be the question.

1 INVESTIGATOR TOWNSEND: I can
2 recall that we showed pictures of the minors
3 as well as their ID. We showed the copies
4 that we had. On the photo of the minor, it
5 actually stated their date of birth and their
6 actual age.

7 On the actual identification of
8 the minors, it said in bold letters that the
9 minors were under 21 until, you know, a
10 further date, which I believe in this case was
11 2016 and 2018 for the minors.

12 MR. RIVERO: I have some follow-up
13 questions.

14 CHAIRPERSON MILLER: Is that --

15 MR. DAWIT: He didn't answer my
16 question because I insisted that I wanted to
17 see the driver's license.

18 CHAIRPERSON MILLER: You --

19 MR. DAWIT: And he was not willing
20 -- they were not willing to show me. Instead
21 they are showing me the copy of the paper with
22 the penalty alleged minor was. And finally,

1 anyway they showed me and when they showed me,
2 it was not the ID that I saw. But I -- that's
3 why --

4 CHAIRPERSON MILLER: So let me
5 just -- because you are not an attorney. So
6 you're saying that he showed you copies of the
7 ID, but you wanted to actually have him show
8 you the ID itself?

9 MR. DAWIT: Picture copy of the
10 ID. The picture copy of the person. And when
11 I insisted that I wanted to see the ID itself,
12 they were not willing to show me. But I
13 insisted that I see that.

14 CHAIRPERSON MILLER: Did you --

15 MR. DAWIT: Yes, finally they
16 showed me. And it was not the ID card.

17 CHAIRPERSON MILLER: I'm sorry.
18 Do you understand the question?

19 INVESTIGATOR TOWNSEND: I think he
20 is saying that we didn't show him the IDs.

21 CHAIRPERSON MILLER: Yes.

22 INVESTIGATOR TOWNSEND: But we

1 showed him copies of the photos of the minors
2 as well as copies of the IDs.

3 CHAIRPERSON MILLER: Okay. So was
4 the question why didn't he show you the IDs?

5 MR. DAWIT: Yes. Why didn't you
6 show me the ID?

7 CHAIRPERSON MILLER: Okay.

8 MR. DAWIT: And --

9 CHAIRPERSON MILLER: Wait. Let's
10 do one at a time. Why didn't you show him the
11 IDs?

12 INVESTIGATOR TOWNSEND: We didn't
13 -- we don't -- as Investigators, when we do
14 compliance checks, we don't have the actual
15 IDs. The minors have them on them, so we have
16 copies of the IDs as well as a copy,
17 photocopies of, you know, their persons. So
18 I remember showing you the copy of the minors
19 themselves as well as a copy of their IDs.

20 CHAIRPERSON MILLER: Is there --
21 did you have another question or is that it?

22 MR. DAWIT: No, I don't have any

1 other question.

2 CHAIRPERSON MILLER: Okay. Thank
3 you. Thank you. Do you want to do your
4 redirect before we do our Board questions?
5 All right. I'll allow that. Okay.

6 REDIRECT EXAMINATION

7 MR. RIVERO: I just wanted to
8 clarify for the record, Investigator Townsend,
9 that we had one, two, three, how many minors?

10 INVESTIGATOR TOWNSEND: There were
11 two minors.

12 MR. RIVERO: Were they male or
13 female?

14 INVESTIGATOR TOWNSEND: Both
15 males.

16 MR. RIVERO: Okay. I'm going to
17 go ahead and show you a document that I'm
18 calling Government's 1 for identification, a
19 copy of which has been provided to the
20 licensee, which is merely the report that I
21 believe you compiled in this case, which is
22 before the Board. I would like you to

1 identify this document. What is this
2 document?

3 INVESTIGATOR TOWNSEND: This is my
4 case report.

5 MR. RIVERO: Okay. I want you to
6 go ahead and take a moment and flip through to
7 make sure that it is complete and that nothing
8 is missing.

9 INVESTIGATOR TOWNSEND: Yes, it's
10 complete.

11 MR. RIVERO: This is an accurate
12 copy of the report that you had prepared for
13 this case?

14 INVESTIGATOR TOWNSEND: Yes.

15 MR. RIVERO: And it contains all
16 of the attachments in your original report?

17 INVESTIGATOR TOWNSEND: Correct.

18 MR. RIVERO: And this was a report
19 that was prepared contemporaneously around the
20 time that the incident took place?

21 INVESTIGATOR TOWNSEND: Yes.

22 MR. RIVERO: And this report was

1 prepared pursuant to your own job duties?

2 INVESTIGATOR TOWNSEND: Yes.

3 MR. RIVERO: And this is a report
4 that is kept in the file of the Agency?

5 INVESTIGATOR TOWNSEND: That's
6 correct.

7 MR. RIVERO: Thank you. The
8 Government would move Exhibit 1, which is the
9 report in this matter, into evidence at this
10 time.

11 CHAIRPERSON MILLER: Okay. I'm
12 going to admit it. I don't know if you have
13 any objections, but it's a public report.

14 MR. DAWIT: No, I'll allow the
15 admission of that.

16 CHAIRPERSON MILLER: Okay. So the
17 Government's Exhibit No. 1, which is the case
18 report with attachments is admitted.

19 (Whereupon, the above-referred to
20 document was marked as Government
21 Exhibit No. 1 for identification
22 and was received into evidence.)

1 MR. RIVERO: Okay. Now, I want to
2 call your attention to the fact that you have
3 exhibits in your report, right?

4 INVESTIGATOR TOWNSEND: Correct.

5 MR. RIVERO: Okay. You have
6 something called Exhibit 1 and Exhibit 2 here
7 and they appear to be photographs of somebody,
8 that's Exhibit 1. And I'm holding it up, so
9 that Board Members may be able to see it. And
10 then I'm going to show you what appears to be
11 a photo of the same person that we're calling
12 Exhibit 2.

13 These photos depict who?

14 INVESTIGATOR TOWNSEND: The
15 minors.

16 MR. RIVERO: The minors. One of
17 the minors?

18 INVESTIGATOR TOWNSEND: Yes.

19 MR. RIVERO: Okay. I'm going to
20 go ahead and show you what you have called
21 Exhibit 3. It's a photo of a different
22 person. And I'm holding it up, so that Board

1 Members can see. And then there is Exhibit 4,
2 which appears to be a photo of the same
3 person, a different photo, same person.

4 INVESTIGATOR TOWNSEND: Correct.

5 MR. RIVERO: And I'm holding it up
6 so that Board Members can see. This is a
7 photo of whom?

8 INVESTIGATOR TOWNSEND: Another of
9 the minors.

10 MR. RIVERO: Okay. Another of the
11 minors, okay. Did I show the photos of the
12 two minors?

13 INVESTIGATOR TOWNSEND: Yes.

14 MR. RIVERO: You have an Exhibit 5
15 in the report. I'm going to hold that up.
16 It's a little bit blurry, so -- but it appears
17 to be a driver's license?

18 INVESTIGATOR TOWNSEND: That is an
19 ID card.

20 MR. RIVERO: It's an ID card.
21 Okay. Is that for one of the minors?

22 INVESTIGATOR TOWNSEND: Correct.

1 MR. RIVERO: And that's what you
2 call Exhibit 5 in your report?

3 INVESTIGATOR TOWNSEND: Yes.

4 MR. RIVERO: And I'm going to hold
5 up what you call Exhibit 6 in your report.
6 That is a different ID card, right?

7 INVESTIGATOR TOWNSEND: That is a
8 Maryland Learner's Permit.

9 MR. RIVERO: Okay. All right.
10 And is that for the second minor?

11 INVESTIGATOR TOWNSEND: Correct.

12 MR. RIVERO: All right. Then turn
13 your attention to Exhibit 5, that first
14 picture that Washington ID card, right?

15 INVESTIGATOR TOWNSEND: Yes.

16 MR. RIVERO: Does it indicate
17 anything about age?

18 INVESTIGATOR TOWNSEND: It says
19 that the minor is under 21 until 4/8/2016.

20 MR. RIVERO: Okay. I'm going to
21 go ahead and show you then what you call
22 Exhibit 6, the other, the Maryland ID card.

1 Does it say anything there about age?

2 INVESTIGATOR TOWNSEND: Under 18
3 until, it looks like, 3/1/15 and then under 21
4 until 3/1/18.

5 MR. RIVERO: Are these accurate
6 photographs of the minors that accompanied you
7 that day --

8 INVESTIGATOR TOWNSEND: Yes, they
9 are.

10 MR. RIVERO: -- on the compliance
11 check? Okay. Are these accurate copies of
12 the identification that the minors presented
13 that day?

14 INVESTIGATOR TOWNSEND: Yes.

15 MR. RIVERO: Would it be fair to
16 say then that you carried these copies, but
17 did not show the real identification cards,
18 because that's part of your protocol?

19 INVESTIGATOR TOWNSEND: Correct.

20 MR. RIVERO: Thank you. No
21 further questions.

22 CHAIRPERSON MILLER: Okay. So do

1 you have any questions based on this last line
2 of questioning?

3 MR. DAWIT: Yes, ma'am.

4 RE-CROSS-EXAMINATION

5 MR. DAWIT: Upon my insistence to
6 see the ID, you finally showed me the real ID.

7 CHAIRPERSON MILLER: Okay. This
8 is question time though. You will get to
9 respond.

10 MR. DAWIT: Yes, that's what I'm
11 trying to say.

12 CHAIRPERSON MILLER: All right.

13 MR. DAWIT: He didn't show me the
14 copy. He showed me the real ID. And that's
15 when I said this is not the ID I saw when I
16 checked selling the beer. So there is a
17 contradiction what he says. He showed me the
18 IDs.

19 CHAIRPERSON MILLER: Okay. I just
20 want to -- you are going to have an
21 opportunity to take the witness stand and say
22 all that. Whatever statements you have, we

1 will hear from you after him, okay? This is
2 only if you have a question.

3 MR. DAWIT: Okay. No.

4 CHAIRPERSON MILLER: Okay. Do
5 Board Members have questions?

6 MEMBER ALBERTI: Yes.

7 CHAIRPERSON MILLER: Yes, Mr.
8 Alberti?

9 MEMBER ALBERTI: Investigator,
10 good morning. Thank you for your report.

11 INVESTIGATOR TOWNSEND: Good
12 morning.

13 MEMBER ALBERTI: Do you remember--
14 all right. Your report says that the licensee
15 checked the ID of one of the two minors. Is
16 that correct?

17 INVESTIGATOR TOWNSEND: That's
18 correct.

19 MEMBER ALBERTI: Okay. Do you
20 remember which of the two minors ID was
21 checked?

22 INVESTIGATOR TOWNSEND: So that

1 would be --

2 MEMBER ALBERTI: Is it Exhibit 5
3 or Exhibit 6?

4 INVESTIGATOR TOWNSEND: -- on mine
5 it's --

6 MR. RIVERO: Or --

7 INVESTIGATOR TOWNSEND: -- Exhibit
8 5.

9 MEMBER ALBERTI: So Exhibit 5 is
10 the ID that was shown to the clerk. Is that
11 correct?

12 INVESTIGATOR TOWNSEND: Correct.
13 A copy of the ID was shown to him.

14 MEMBER ALBERTI: Well, no, no, no.
15 During the sale of the beverages, the clerk
16 was handed an ID by one of the minors.

17 INVESTIGATOR TOWNSEND: Correct.

18 MEMBER ALBERTI: Which ID was he
19 handed?

20 INVESTIGATOR TOWNSEND: Exhibit 5.

21 MEMBER ALBERTI: Thank you.

22 INVESTIGATOR TOWNSEND: Yes.

1 MEMBER ALBERTI: No further
2 questions.

3 CHAIRPERSON MILLER: Others? Yes,
4 Mr. Short?

5 MEMBER SHORT: Yes, good morning,
6 Inspector.

7 INVESTIGATOR TOWNSEND: Good
8 morning.

9 MEMBER SHORT: Investigator.

10 INVESTIGATOR TOWNSEND: Good
11 morning.

12 MEMBER SHORT: Where were you when
13 these sales took place?

14 INVESTIGATOR TOWNSEND: I was in a
15 food aisle, I believe it was, inside of the
16 establishment maybe about 15 feet, 20 feet
17 away from the actual counter where the sale
18 took place.

19 MEMBER SHORT: Okay. So you
20 actually had a view of the minors going to the
21 cash register, producing these IDs that were
22 not up to date or legal?

1 INVESTIGATOR TOWNSEND: Correct.

2 MEMBER SHORT: And then still
3 being sold the alcohol?

4 INVESTIGATOR TOWNSEND: Yes, sir.

5 MEMBER ALBERTI: Thank you.

6 That's all I have, Madam Chair.

7 CHAIRPERSON MILLER: Okay.

8 Others? I have a question. Based on the
9 copies that were shown to the owner, okay, I
10 have, I'm looking at, Exhibit 1, which is the
11 case report with exhibits. And they are all
12 in black and white in the copy that I'm
13 looking at right here.

14 So my question is is there -- are
15 the originals or what he was shown in color or
16 black and white?

17 INVESTIGATOR TOWNSEND: The
18 originals were in color.

19 CHAIRPERSON MILLER: All right.

20 INVESTIGATOR TOWNSEND: I'm just
21 assuming that this copy was made in black and
22 white. But the color -- the copies that we

1 take out were color-only, we take every day.

2 CHAIRPERSON MILLER: Okay. That's
3 fine. Okay. I have no further questions.
4 Any questions on Board questions? All right.
5 Thank you very much.

6 INVESTIGATOR TOWNSEND: Thank you.
7 (Whereupon, witness was excused.)

8 CHAIRPERSON MILLER: Does that
9 complete your case, Mr. Rivero?

10 MR. RIVERO: That concludes the
11 Government's case.

12 CHAIRPERSON MILLER: Okay. Now,
13 would you like to testify or produce any
14 documents or anything?

15 MR. DAWIT: Yes, ma'am.

16 CHAIRPERSON MILLER: Okay. So if
17 you will take the witness stand, I'll swear
18 you in. All right.

19 Whereupon,

20 AFEWORK DAWIT
21 was called as a witness by the Licensee, and
22 having been first duly sworn, assumed the

1 witness stand and was examined and testified
2 as follows:

3 MR. DAWIT: I do.

4 CHAIRPERSON MILLER: Okay. Thank
5 you. So now is your opportunity to present
6 your case.

7 MR. DAWIT: Yes.

8 DIRECT EXAMINATION

9 MR. DAWIT: At the time this --
10 the three Investigators and the two minors,
11 the alleged minors got into the store, I was
12 working behind the register. And the three
13 Inspectors were, you know, doing some --
14 picking their groceries and the two minors
15 went straight to the beer area.

16 Like he said, took two packs of
17 Miller Lite, then came to the -- to my
18 register. As a procedure, I asked for an ID.
19 The first one I asked for the ID and I looked
20 at it and did not deem the sale. Okay?

21 Then the second guy, then the
22 second guy brought his paper -- showed me his

1 ID. I looked at it and it was okay and I sold
2 the beer. Then when they left, the three
3 Inspectors came, paid their -- for their
4 groceries and went out.

5 In five minutes, they came back
6 and told me that I am in violation of selling
7 beer to minors. Like I said, I was just --
8 which minor I sold this beer? To this minor.
9 So he said well, you have to sign this paper
10 and admitting that you sold the beer. I said
11 no. I didn't sell the beer. I don't -- and
12 I don't admit.

13 So there was some kind of argument
14 there and finally I said I want to see the ID.
15 When I saw the -- finally he showed me the ID.
16 When I saw the ID, it was not the ID I saw.
17 It was totally different.

18 So what I did was -- he just
19 mentioned that he only -- I only checked one
20 person. I checked both of them. I checked
21 both minors. And I'm -- I did the right
22 thing. And he just told me that I was in

1 violation. And I couldn't believe what
2 happened.

3 And then finally, he explained to
4 me that I can go to the office, to the Board
5 and explain my case. And then I signed the
6 paper and they left.

7 So after that, you know, so
8 frustrated by the whole incident and was
9 thinking about doing something to avoid such
10 problems. And so I went on the website and
11 tried to buy an ID Check machine and bought it
12 and since then, I'm working with that and I
13 have no problem. I mean, that's what
14 happened.

15 So basically, that's what happened
16 and I feel that it was not done the right way.
17 And first of all, the -- most of the time in
18 many cases, many businesses in that area the
19 Inspectors visit, they don't come to the store
20 like it is a war zone area or something like
21 that.

22 I mean, I working there. I'm

1 there by myself. I have nobody around. There
2 were other customers around 11 people in the
3 store. And it's just like they are trying to
4 get me, but in spite of all this, I did all I
5 could to make sure that everything is done
6 according to the law. So that's basically
7 what happened, ma'am.

8 CHAIRPERSON MILLER: Okay. Do you
9 have any questions?

10 MR. RIVERO: None.

11 CHAIRPERSON MILLER: Board
12 Members?

13 MEMBER SHORT: Yes, I do.

14 CHAIRPERSON MILLER: Yes, Mr.
15 Short?

16 MEMBER SHORT: Good morning still,
17 sir. And you have been in business how long?

18 MEMBER ALBERTI: Wait, wait. Does
19 Mr. Rivero have any questions? Okay. No?

20 MR. RIVERO: No.

21 MEMBER ALBERTI: I'm sorry.

22 MR. DAWIT: I've been in business

1 since 2008.

2 MEMBER SHORT: Since 2008.

3 MR. DAWIT: Yes.

4 MEMBER SHORT: Have you ever had
5 any training on IDs or have read anything on
6 IDs? Have you done anything to bring yourself
7 up to speed with minors who might come into
8 your establishment to buy alcohol?

9 MR. DAWIT: Yes, yes, ma'am. Yes,
10 sir.

11 MEMBER SHORT: What have you done?
12 Tell me the things you have done.

13 MR. DAWIT: I read about the rules
14 and regulations and I'm always cautious when
15 I see people. You know, sometimes even over-
16 age people when they come to the store, I ask
17 them for ID. They may not cooperate, but I
18 do. I am very cautious and very responsible
19 person. And I do all I can to abide by the
20 laws.

21 MEMBER SHORT: Okay. Now, do you
22 remember the Investigators being in the store

1 the day that you sold the alcohol?

2 MR. DAWIT: The Investigator, I
3 remember.

4 MEMBER SHORT: They were in the
5 store when you sold alcohol?

6 MR. DAWIT: They were in the
7 store, yes.

8 MEMBER SHORT: Okay. And --

9 MR. DAWIT: In the store and they
10 are just roaming around.

11 MEMBER SHORT: How much later did
12 they come in the store after you sold the --
13 or make you known that you had sold to minors?

14 MR. DAWIT: In about five minutes
15 they came back and they usually don't come to
16 the store and do that. They usually stay back
17 in their car and send the minors into the
18 store. This time three of them and two people
19 came there and there are six more people in
20 the store. And it is unbearable to do that,
21 because I'm work -- I was working under
22 pressure. And they are just forcing me do

1 this, do this. I mean, that's not right.

2 MEMBER SHORT: Have you ever
3 thought about getting some help?

4 MR. DAWIT: Sir, I cannot do that
5 because I'm barely making it there. I'm
6 trying to make it and it's not -- I'm not in
7 a position to hire someone.

8 MEMBER SHORT: Okay. I can
9 understand your passion about that. But can
10 I -- I would just like to say to you alcohol
11 and underage drinking in this town is a
12 problem. Do you realize that?

13 MR. DAWIT: Yes, sir. Yes, I do.

14 MEMBER SHORT: And you don't want
15 to be a contributor to that, do you?

16 MR. DAWIT: No, not at all. Not
17 at all, sir.

18 MEMBER SHORT: So you will check a
19 little closer the next time?

20 MR. DAWIT: Yes, sir. I will do.

21 MEMBER SHORT: That's all I have,
22 Madam Chair.

1 CHAIRPERSON MILLER: Others?

2 MEMBER ALBERTI: Yes.

3 CHAIRPERSON MILLER: Mr. Alberti?

4 MEMBER ALBERTI: Good afternoon,
5 sir. So it was your testimony that two
6 individuals came to the counter and they had
7 a two pack of beer.

8 MR. DAWIT: Yes, yes, sir. Yes,
9 sir.

10 MEMBER ALBERTI: All right. So
11 they had two containers?

12 MR. DAWIT: Yes, sir.

13 MEMBER ALBERTI: Is that correct?
14 Okay. You checked the -- you said that you
15 checked the ID of one and refused to sell it
16 to that person?

17 MR. DAWIT: Yes, sir.

18 MEMBER ALBERTI: Is that correct?

19 MR. DAWIT: Absolutely.

20 MEMBER ALBERTI: Did you refuse to
21 sell it to that person because you thought
22 that person was under 21?

1 MR. DAWIT: Yes, sir.

2 MEMBER ALBERTI: Okay.

3 MR. DAWIT: Yes, sir.

4 MEMBER ALBERTI: So now we have
5 two cans of beer, two individuals, all right.

6 Is that correct?

7 MR. DAWIT: Yes, two.

8 MEMBER ALBERTI: And you went to
9 the second individual and you sold to that
10 individual?

11 MR. DAWIT: I didn't go to the
12 second.

13 MEMBER ALBERTI: Is that correct?

14 MR. DAWIT: Yes, sir.

15 MEMBER ALBERTI: All right.

16 MR. DAWIT: The one -- what
17 happened was --

18 MEMBER ALBERTI: No, wait, wait,
19 wait. No. So you sold to that individual.
20 So now you know that you have a minor. You
21 have confirmed that you have a minor with
22 another person. There is two cans of beer.

1 And so I take it that you were willing to sell
2 to that second person knowing that it was
3 possible that he was going to provide an
4 alcoholic beverage to a minor. Is that
5 correct?

6 MR. DAWIT: Can you repeat your
7 question, sir? I don't understand.

8 MEMBER ALBERTI: All right. Did
9 you consider the possibility that the person
10 you sold the two cans of beer would give one
11 of the cans of beer to the minor?

12 MR. DAWIT: In that case, I
13 didn't. I didn't consider that. The only --
14 my duty is to look at the ID and see if he can
15 buy or not. So based on that, I made that
16 decision, sir.

17 MEMBER ALBERTI: Okay. So which
18 of these two IDs -- you have seen this report,
19 right?

20 MR. DAWIT: Yes, sir. Yes.

21 MEMBER ALBERTI: Which of these
22 two IDs were you shown? Which of these two

1 IDs did you think was of the individual who
2 was underage?

3 MR. DAWIT: This was the
4 individual who was under age.

5 MEMBER ALBERTI: So that --

6 MR. DAWIT: That's the one I first
7 checked.

8 MEMBER ALBERTI: So it's your
9 testimony that that's the first individual
10 whose ID you checked?

11 MR. DAWIT: I checked, then denied
12 it, sir.

13 MEMBER ALBERTI: Okay. So that
14 is --

15 MR. RIVERO: I'm sorry, in the
16 record it would not be clear. The transcript
17 wouldn't be clear on who is being singled out.

18 MEMBER ALBERTI: And I'm going to.

19 CHAIRPERSON MILLER: Okay.

20 MEMBER ALBERTI: Thank you, Mr.
21 Rivero.

22 CHAIRPERSON MILLER: Thank you.

1 MEMBER ALBERTI: Thank you for
2 reminding me of that.

3 So the licensee just showed me the
4 picture in Exhibit 4 of the Government's
5 Exhibit 1, if that makes sense. All right.

6 And that is the ID of the person
7 in Exhibit 6. Is that correct?

8 MR. DAWIT: No. 6, let me see.
9 Yes.

10 MEMBER ALBERTI: Okay. So then,
11 you were shown -- according to your testimony,
12 you were then shown the ID in Exhibit 5?

13 MR. DAWIT: Yes.

14 MEMBER ALBERTI: All right. What
15 does it say right under the picture on that
16 exhibit?

17 MR. DAWIT: Under 21 until
18 4/8/2016.

19 MEMBER ALBERTI: Under 21 until --
20 okay. Thank you. I have no further
21 questions.

22 CHAIRPERSON MILLER: Okay.

1 Others? All right. So yes, no, I'll follow-
2 up on that, sir.

3 So why don't -- did you see the
4 under 21 until 4/8/2016 on that ID that Mr.
5 Alberti was just referring to?

6 MR. DAWIT: This is not the ID
7 that I saw.

8 CHAIRPERSON MILLER: That is not
9 the ID?

10 MR. DAWIT: That's my point. This
11 is not the ID I saw. Let me explain to the
12 Board here. When I see something in red
13 written like -- I'm not crazy. I can be very
14 tired and under stress, but I cannot be that
15 crazy to sell a person with that kind of
16 phrasing there. This is not the ID I saw.

17 CHAIRPERSON MILLER: So what is
18 different? Was the -- is the person depicted
19 on the ID different?

20 MR. DAWIT: The person? No. The
21 person -- maybe the person's face is the same.

22 CHAIRPERSON MILLER: Same person?

1 MR. DAWIT: But the ID is --

2 CHAIRPERSON MILLER: Same picture?

3 MR. DAWIT: -- different.

4 CHAIRPERSON MILLER: Same picture,
5 but a different ID?

6 MR. DAWIT: Yes, that's what I'm
7 assuming it is.

8 CHAIRPERSON MILLER: Do you
9 remember anything else about that ID? Was it
10 vertical or horizontal?

11 MR. DAWIT: No. Well, upon my
12 insistence to show me the ID, when he showed
13 me the real ID, I saw under 21 until some
14 years. And I said how can I sell to this
15 person, seeing this?

16 CHAIRPERSON MILLER: Okay.

17 MR. DAWIT: When I denied the
18 first one, I really didn't understand why.
19 And I was speechless. I cannot say anything
20 because there were many customers coming into
21 the store.

22 CHAIRPERSON MILLER: Okay. And

1 you have what is called an investigative
2 history, which is attached to the case report.

3 MR. DAWIT: Yes, ma'am.

4 CHAIRPERSON MILLER: Exhibit 1 of
5 the Government.

6 MR. DAWIT: Yes.

7 CHAIRPERSON MILLER: And it shows
8 that you have some other sale to minor
9 violations in the past.

10 MR. DAWIT: Yes, yes, yes, ma'am.

11 CHAIRPERSON MILLER: Okay. Were
12 they for the same or similar reasons or can
13 you remember? Is it the same problem that
14 your store is busy and --

15 MR. DAWIT: No, not really.
16 Sometimes, you know, we are right at the
17 beginning of -- at the beginning when we start
18 the business and we are not that much aware of
19 what was going on.

20 CHAIRPERSON MILLER: Okay.

21 MR. DAWIT: But we are, you know,
22 open to making mistakes at that point, yes,

1 but when we stay in the business for a long
2 time, we learn day-by-day and we become very
3 cautious about what you do.

4 CHAIRPERSON MILLER: Are you aware
5 that ABRA does have classes on --

6 MR. DAWIT: Yes, ma'am, I know.

7 CHAIRPERSON MILLER: -- ID
8 reading? Okay. So then it might make it
9 easier for you to spot?

10 MR. DAWIT: Yes, it makes it
11 easier for us, yes. Yes, ma'am.

12 CHAIRPERSON MILLER: Okay. Any
13 other questions?

14 MEMBER BROOKS: Yes, I have a
15 question.

16 CHAIRPERSON MILLER: Yes, Mr.
17 Brooks?

18 MEMBER BROOKS: Sir, have you ever
19 attended an ABRA class on how to identify fake
20 IDs?

21 MR. DAWIT: No, I haven't
22 attended, sir, no.

1 MEMBER BROOKS: But you know of
2 them?

3 MR. DAWIT: I know about that --

4 MEMBER BROOKS: The classes?

5 MR. DAWIT: -- but I read and it's
6 no different, because always I'm careful and
7 what to do. Actually, I attended one, so --

8 MEMBER BROOKS: How long ago was
9 that?

10 MR. DAWIT: Huh?

11 MEMBER BROOKS: How long ago?

12 MR. DAWIT: At the beginning when
13 we acquired the business. It was like 2008.

14 MEMBER BROOKS: Okay.

15 MR. DAWIT: Or something, I'm not
16 very sure though.

17 MEMBER BROOKS: But you haven't
18 been to another one?

19 MR. DAWIT: No, I didn't attend.

20 MEMBER BROOKS: Thank you, Madam
21 Chair.

22 CHAIRPERSON MILLER: Okay. All

1 right. Mr. Rivero, any questions on Board
2 questions?

3 MR. RIVERO: None.

4 CHAIRPERSON MILLER: Okay.
5 Anything else you want to say?

6 MR. DAWIT: Well, considering what
7 I said and what I did after the incident,
8 buying or acquiring the ID scanning machine,
9 the Board may understand me, fully understand
10 how committed I am to doing my job better.

11 CHAIRPERSON MILLER: Okay. Thank
12 you. All right. You can take a seat back at
13 the table then. All right. I just want to
14 double check whether you have any documents
15 you want -- sir? Do you have any documents
16 you want to put in evidence, in the record?

17 MR. DAWIT: Actually, I wrote a
18 little bit about what happened. Shall I give
19 it to you?

20 CHAIRPERSON MILLER: Could you
21 explain what it is?

22 MR. DAWIT: Actually, I attached a

1 copy of the machine that I bought to show
2 that --

3 CHAIRPERSON MILLER: Okay. A copy
4 of the machine.

5 MR. DAWIT: -- in writing. And
6 basically, what I wrote there is what I tried
7 to explain here.

8 CHAIRPERSON MILLER: Why don't you
9 show it to Mr. Rivero first?

10 MR. RIVERO: Is this being offered
11 as evidence?

12 CHAIRPERSON MILLER: I believe it
13 is.

14 MR. RIVERO: I would have cross or
15 a question on the exhibit once it's
16 introduced. I have no objection to the
17 introduction --

18 CHAIRPERSON MILLER: Okay. Could
19 I take a look at it then?

20 MR. RIVERO: -- itself.

21 CHAIRPERSON MILLER: Okay. Okay.
22 All right. Mr. Rivero, so the first part is

1 a narrative and the second part is an invoice,
2 which do -- you don't object to either one,
3 provided you can cross?

4 MR. RIVERO: (No audible answer.)

5 CHAIRPERSON MILLER: Okay. All
6 right. Then if you don't object, I will admit
7 them as Respondent's Exhibit Nos. 1 and 2
8 separately, because they are kind of distinct.

9 (Whereupon, the above-referred to
10 documents were marked as Licensee
11 Exhibit No. 1 and 2 for
12 identification and were received
13 into evidence.)

14 CHAIRPERSON MILLER: I assume this
15 is your only copy right now, right?

16 MR. DAWIT: Yes.

17 CHAIRPERSON MILLER: Right, Mr.
18 Dawit? This is your only copy?

19 MR. DAWIT: I got a copy.

20 CHAIRPERSON MILLER: You have
21 another copy?

22 MR. DAWIT: Yes, I got.

1 MR. RIVERO: I'll use this for
2 now.

3 CHAIRPERSON MILLER: All right.
4 If you don't need this back. He is entitled
5 to cross-examine on this. So we need you to
6 take the witness stand again. Correct? Yes,
7 correct.

8 MR. DAWIT: Okay.

9 MR. RIVERO: Or he can answer from
10 there. It doesn't matter.

11 CHAIRPERSON MILLER: All right,
12 fine.

13 MR. DAWIT: No problem.

14 CHAIRPERSON MILLER: Okay.

15 MR. DAWIT: Okay.

16 MR. RIVERO: If you're more
17 comfortable there.

18 MR. DAWIT: I feel comfortable
19 here, yes, sir.

20 MR. RIVERO: Okay. All right.

21 CROSS-EXAMINATION

22 MR. RIVERO: The second page is an

1 invoice for what purchase?

2 MR. DAWIT: Yes, yes.

3 MR. RIVERO: What did you
4 purchase?

5 MR. DAWIT: It is ID scanning
6 machine.

7 MR. RIVERO: Okay. All right.

8 MR. DAWIT: For minors.

9 MR. RIVERO: That's fine. On the
10 first page, is it your testimony you state
11 that the Investigators bought groceries and
12 left? Is that your testimony?

13 MR. DAWIT: Yes. Actually, yes,
14 that is what they did. They were in the store
15 along with the minors and they were picking
16 some stuff themselves. They bought, they paid
17 me and left right behind the minors.

18 MR. RIVERO: What did the
19 Investigators buy?

20 MR. DAWIT: I don't remember. I
21 think something like water or something.

22 MR. RIVERO: Okay. So water?

1 Not --

2 MR. DAWIT: I'm not sure. I'm not
3 exactly sure, but they bought maybe candy or
4 something they bought.

5 MR. RIVERO: All right. No
6 further questions.

7 CHAIRPERSON MILLER: Okay. Any
8 other Board Member want to take a look at this
9 and see if they want to ask any question on
10 it?

11 MEMBER ALBERTI: What is it?

12 CHAIRPERSON MILLER: The first
13 page is a narrative, similar to his testimony.
14 And the second page is an invoice reflecting
15 the purchase of the ID scanner.

16 MEMBER ALBERTI: What's the
17 relevance of the ID scanner?

18 MR. DAWIT: You asking me?

19 MEMBER ALBERTI: Yes. Because I
20 mean, you have submitted an ID scanner.
21 What's the relevance to this case?

22 MR. DAWIT: The relevance of it is

1 that to show that I'm really devoted to doing
2 the right thing.

3 MEMBER ALBERTI: Okay. But you
4 did not use it in this case? Is that correct?

5 MR. DAWIT: At that point, no. I
6 don't have it then.

7 MEMBER ALBERTI: Okay. Thank you.
8 Thank you.

9 MR. DAWIT: I bought it after the
10 incident.

11 MEMBER ALBERTI: Okay. Thank you.

12 CHAIRPERSON MILLER: Okay.
13 Anything else? All right. So I did admit
14 these as Respondent Exhibits 1 and 2.

15 MEMBER SHORT: Madam Chair?

16 CHAIRPERSON MILLER: Yes, Mr.
17 Short?

18 MEMBER SHORT: For the record, can
19 we say what day he bought that machine? For
20 the record?

21 CHAIRPERSON MILLER: The invoice
22 date on exhibit number -- Respondent's Exhibit

1 No. 2 is April 17, 2014.

2 MEMBER SHORT: That is after the
3 charging date?

4 CHAIRPERSON MILLER: I don't know.
5 You can ask --

6 MEMBER ALBERTI: It was after the
7 date.

8 MR. DAWIT: Right after the
9 incident.

10 MEMBER ALBERTI: Just to be clear
11 and helpful, it's after the date of the
12 incident. The date of the incident, in our
13 records, is April 14th.

14 MEMBER SHORT: Thank you very
15 much. That's what I wanted on the record.

16 CHAIRPERSON MILLER: Okay. Oh,
17 here, go ahead and take it.

18 MEMBER SHORT: No, I'm fine.

19 CHAIRPERSON MILLER: Okay. All
20 right. Does that conclude everyone's
21 evidence, at this point? All right. Then
22 it's time for closing arguments. Mr. Rivero?

1 MR. RIVERO: Thank you, Board
2 Members. The Board in this case is simply
3 presented with two versions of what happened
4 on a particular day.

5 Happily for the Government, it's
6 not my job to prove by 100 percent the truth
7 of what exactly happened that day. So
8 Government's burden of proof here is called a
9 preponderance of the evidence, which is to say
10 I have to prove to you all that it is more
11 likely than not that the actual sale to minor
12 took place as described by the Government's
13 witness.

14 Now, because two stories conflict
15 does not mean that, in fact, a sale didn't
16 take place here. It is entirely possible for
17 someone to have made a mistake in checking an
18 ID. My job is to prove a violation of the
19 law. And the Civil Law here isn't concerned
20 with a person's state of mind.

21 Thus, I am not proving to you that
22 the licensee was incompetent or lazy or

1 somehow had some sort of motive that was not
2 proper, because that's not at issue here. And
3 no one is calling the licensee any kind of
4 improper qualification.

5 Either a sale took place or it did
6 not. End of the story.

7 Now, it is entirely possible that
8 the licensee may have made a mistake in
9 checking that ID. Otherwise, to believe the
10 licensee's exact version of the story, we
11 would have to posit that Investigators somehow
12 switched IDs and that this compliance check
13 was deliberately set up to trap people.

14 Now, under the law, the Government
15 is entitled to what is called the Presumption
16 of Regularity. The Government is hired to do
17 a certain job and it is presumed to do its job
18 as it states it does it, absent evidence to
19 impugn the motives of the Government.

20 There has been no evidence
21 submitted in this case to show that the
22 Investigators have any kind of animosity

1 towards this particular licensee, had any kind
2 of reason to perform any inappropriate ID swap
3 of any sort, such that the licensee's story
4 would ring 100 percent truthful.

5 What we have instead is the
6 Presumption of Regularity. Whether or not the
7 Investigators purchased groceries, whether or
8 not one or two minors showed the IDs and that
9 the first one was rejected, but ultimately the
10 second one -- ID was accepted. These details
11 do not conflict on the ultimate outcome, was
12 it a sale request? And that's the
13 Government's allegation before you today.

14 You have heard testimony about the
15 protocol. The Government does things in a
16 consistent way. It may not have been to the
17 liking of the licensee or perhaps even the
18 Board Members, but there is no evidence
19 presented before you today that the way in
20 which the Government went about its compliance
21 check was somehow different or special when
22 compared to every other compliance checks that

1 it normally conducts.

2 Thus, on the basis of the
3 Presumption of Regularity that the Government
4 is granted in its job, I would submit to you
5 that it is more likely than not that a sale
6 did take place and you can interpret the
7 stories that you were told as one where a
8 mistake was made.

9 Again, the -- mistakes happen, but
10 the law doesn't excuse mistakes. All we are
11 here about is a violation of it. Any number
12 of reasons can come into play why something
13 happened, but the law here does not excuse
14 itself with respect to -- does not take into
15 account the actual motivations of the persons
16 involved.

17 Therefore, I would ask that you
18 find in the Government's favor that a sale, in
19 fact, took place.

20 The evidence concerning the
21 purchase of the ID machine, while helpful to
22 understand that the licensee takes this matter

1 seriously, is not relevant to the charges of
2 the Government before the Board this day.

3 It may be given weight if the
4 Board considers any particular penalty, but
5 certainly it is not weight that makes the
6 Government's evidence any less than what it
7 has been presented today. Thank you.

8 CHAIRPERSON MILLER: Thank you.
9 Okay.

10 MEMBER ALBERTI: Do we have a
11 recommendation or do we want to -- or not get
12 that now?

13 MR. RIVERO: No. The Government's
14 recommendation is simply for the Board to
15 fashion a penalty that is consistent with
16 Title 25 of the Regulations in the D.C. Code
17 and any weight that the Board may give to any
18 evidence relevant to that consideration.

19 MEMBER ALBERTI: Thank you, Mr.
20 Rivero.

21 MEMBER RODRIGUEZ: Thank you.

22 CHAIRPERSON MILLER: Okay. Mr.

1 Dawit, do you have some closing remarks?

2 MR. DAWIT: Yes. As I stated, I
3 already represented my case and, yes, the
4 Investigators doing their job by trying to
5 make underage drinking impossible for many
6 people, because there are many young people
7 who come to the store and try to buy beer and
8 cigarettes and we, as business people, have to
9 comply with the law to deny for such matters
10 to young people.

11 In my case, it is very unusual for
12 me to see three Investigators in a store and
13 two minors at the same time. And usually when
14 Investigators come, they usually stay outside
15 and send the minors inside the store and this
16 is what happened in the last three times that
17 I been having, but this time they came into
18 the store. And they don't -- they did that.

19 I'm pretty sure if the Board
20 understands what I went through at that time
21 and how hectic the situation was and I
22 understand that I did all I could not to sell

1 to the minor. I already told the first person
2 you cannot buy the beer. And when the second
3 person showed me the ID, it was right for me
4 and I sold it. That's what happened.

5 And based on the information I
6 already presented, I would like the Board to
7 decide in my favor. That's what I want to
8 say.

9 CHAIRPERSON MILLER: Okay. Thank
10 you.

11 MEMBER BROOKS: Thank you.

12 CHAIRPERSON MILLER: My favorite
13 question. Do parties want to file proposed
14 findings of fact and conclusions of law or
15 waive your right to do so?

16 MR. RIVERO: The Government would
17 waive.

18 CHAIRPERSON MILLER: Okay. Do you
19 want me to explain that to you?

20 MR. DAWIT: I don't understand
21 this part.

22 CHAIRPERSON MILLER: Okay. I

1 know. All non-attorneys don't understand it.
2 Okay. So there is a question, there is a law
3 that says you can file proposed findings of
4 fact and conclusions of law based on the
5 record in this case, which is everything that
6 happened today and there will be a transcript
7 of it, the exhibits and the case report and
8 your documents.

9 So you could write something and
10 submit it to the Board and say to the Board,
11 would you, please, consider this in your
12 decision when you write findings of facts and
13 conclusions of law in a decision.

14 The Government is waiving it.
15 It's not something that most parties do,
16 especially in cases that aren't complex, which
17 this one is not complex. But you have a right
18 if you wanted to hire an attorney to file a
19 legal brief that sets forth proposed findings
20 of facts and then conclusions of law.

21 The Government is waiving it.
22 That means they are not going to do it. So

1 I'm asking you would you like to waive it as
2 well?

3 MR. DAWIT: I still don't
4 understand this.

5 CHAIRPERSON MILLER: I know. Mr.
6 Rivero, maybe you can do better with that.

7 MR. RIVERO: The Board's
8 indulgence.

9 CHAIRPERSON MILLER: Okay. Thank
10 you.

11 MR. DAWIT: Okay. Okay.

12 MR. RIVERO: Then tell them you
13 waive.

14 MR. DAWIT: Understood.

15 MR. RIVERO: Okay. Yes, I
16 understood what was said.

17 CHAIRPERSON MILLER: You
18 understand the question now?

19 MR. DAWIT: Yes, yes.

20 CHAIRPERSON MILLER: Would you
21 live to waive it as well?

22 MR. DAWIT: Yes, I'll waive.

1 CHAIRPERSON MILLER: Okay. Thank
2 you, Mr. Rivero.

3 Okay. So I'm going to close the
4 record in this case. That means we are not
5 going to accept any other evidence. And the
6 Board is going to be deliberating on this case
7 in closed session, so I'm going to take a vote
8 by the Board Members to, in fact, deliberate
9 in closed session. Give me one minute. Okay.

10 As Chairperson of the Alcoholic
11 Beverage Control Board for the District of
12 Columbia and in accordance with Section 405 of
13 the Open Meetings Amendment Act of 2010, I
14 move that the ABC Board hold a closed meeting
15 for the purpose of seeking legal advice from
16 our counsel on Case No. 14-CC-00057, L Street
17 Market, per Section 405(b)(4) of the Open
18 Meetings Amendment Act of 2010, and
19 deliberating upon this case for the reasons
20 cited in Section 405(b)(13) of the Open
21 Meetings Amendment Act of 2010.

22 Is there a second?

1 MEMBER RODRIGUEZ: Second it.

2 CHAIRPERSON MILLER: Mr. Rodriguez
3 has seconded the motion. I'll now take a roll
4 call vote on the motion before us now that it
5 has been seconded.

6 Mr. Brooks?

7 MEMBER BROOKS: I agree.

8 CHAIRPERSON MILLER: Mr. Alberti?

9 MEMBER ALBERTI: I agree.

10 CHAIRPERSON MILLER: Mr.

11 Rodriguez?

12 MEMBER RODRIGUEZ: I agree.

13 CHAIRPERSON MILLER: Ms. Miller
14 agrees.

15 Mr. Silverstein?

16 MEMBER SILVERSTEIN: I agree.

17 CHAIRPERSON MILLER: Mr. Short?

18 MEMBER SHORT: I agree.

19 CHAIRPERSON MILLER: Okay. It
20 appears that the motion has passed by a 6-0-0
21 vote.

22 I hereby give notice that the ABC

1 Board will hold a closed meeting in the ABC
2 Board conference room pursuant to the Open
3 Meetings Amendment Act of 2010 on this case
4 and we will be providing a decision within 90
5 days in writing. Okay.

6 Thank you very much.

7 MR. DAWIT: Thank you.

8 MR. RIVERO: Thank you, sir.

9 CHAIRPERSON MILLER: Have a good
10 holiday. Okay.

11 (Whereupon, the Show Cause Hearing
12 in the above-entitled matter was concluded at
13 11:53 a.m.)

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