

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

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IN THE MATTER OF: :  
 :  
Lion's Gate, Inc. t/a :  
Lion's Fine Wine & Spirits : Show  
3614 Georgia Ave., NW : Cause  
Retailer A - ANC-1A : Hearing  
License No. 88221 :  
Case #12-CMP-00144 :  
 :  
(No ABC Manager on Duty) :  
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December 11, 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:

MAUREEN ZANIEL, OAG  
TYRONE LAWSON, ABRA Investigator

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

2 (10:54 a.m.)

3 CHAIRPERSON MILLER: Okay. I'm  
4 calling Case No. 12-CMP-00144, Lion's Fine  
5 Wine & Spirits located at 3614 Georgia Avenue,  
6 N.W., License No. 88221, in ANC-1A. And this  
7 is a Show Cause Hearing.

8 Would the parties introduce  
9 themselves for the record?

10 MS. ZANIEL: Yes. Good morning  
11 again, Maureen Zaniel on behalf of the  
12 District of Columbia.

13 CHAIRPERSON MILLER: Okay. Is  
14 anybody here for respondent/licensee, Lion's  
15 Fine Wine & Spirits? Okay. Not seeing  
16 anyone, Ms. Zaniel, have you had any  
17 communication with anyone from Lion's Fine  
18 Wine & Spirits?

19 MS. ZANIEL: I have not and I  
20 don't know whether they were here last time or  
21 not to tell you the truth. There was a status  
22 on October 16. Someone from my office

1 appeared and I can't discern her notes as to  
2 whether the owner was present. Oh, I believe  
3 it is, because it looks like the name of the  
4 owner.

5 The owner was present at the  
6 Status Hearing, apparently, but I have not  
7 seen anyone here today nor have I been  
8 contacted by anyone.

9 CHAIRPERSON MILLER: Okay. And  
10 our office hasn't been contacted by the  
11 licensee and it is now 10:55 and the licensee  
12 wasn't here earlier when we were here.

13 So are you prepared to present the  
14 case ex parte then?

15 MS. ZANIEL: I am.

16 CHAIRPERSON MILLER: Okay. Then  
17 why don't you proceed that way?

18 MS. ZANIEL: Okay. First, I would  
19 ask the Board to take notice of its records,  
20 specifically the service form where it does  
21 indicate service was -- well, it's a confused  
22 notice now that I'm looking at it.

1                   It indicates that the service was  
2                   made on August 6, 2013 to a person who was an  
3                   ABC manager and that person's number is listed  
4                   and that's the person who signed for the  
5                   notice. So I would ask the Board to take  
6                   notice of its service form in its file.

7                   CHAIRPERSON MILLER: Okay.

8                   MS. ZANIEL: And then I would call  
9                   the Investigator Tyrone Lawson to the stand.

10                  CHAIRPERSON MILLER: Okay. Good  
11                  morning, Mr. Lawson.

12                  Whereupon,

13                  INVESTIGATOR TYRONE LAWSON  
14                  was called as a witness by Counsel for the  
15                  Government, and having been first duly sworn,  
16                  assumed the witness stand and was examined and  
17                  testified as follows:

18                  CHAIRPERSON MILLER: Okay. Good.

19                  DIRECT EXAMINATION

20                  MS. ZANIEL: Good morning,  
21                  Investigator. State your name, please.

22                  INVESTIGATOR LAWSON: Tyrone

1           Lawson.

2                           MS. ZANIEL:   And where are you  
3           employed, Investigator?

4                           INVESTIGATOR LAWSON:   With the  
5           Department of Consumer and Regulatory Affairs.

6                           MS. ZANIEL:   I would like to draw  
7           your attention back to March 24, 2012.   Where  
8           were you employed at that time?

9                           INVESTIGATOR LAWSON:   With the  
10          Alcoholic Beverage Regulation Administration.

11                          MS. ZANIEL:   And what were your  
12          duties with ABRA?

13                          INVESTIGATOR LAWSON:   I was an  
14          Investigator.   I conducted regulatory  
15          inspections and investigations for the  
16          Alcoholic Beverage Control Board.

17                          MS. ZANIEL:   Did you have occasion  
18          to visit a liquor store known as Lion's Fine  
19          Wine & Spirits?

20                          INVESTIGATOR LAWSON:   Yes.

21                          MS. ZANIEL:   And can you tell us  
22          about what happened when you went on March 24,

1 2012?

2 INVESTIGATOR LAWSON: Yes. As I  
3 recall, we were assigned to deliver renewal  
4 reminder letters to establishments. And I  
5 went to the establishment to deliver the  
6 renewal letter and I asked for an ABC manager/  
7 owner when I entered. And --

8 MS. ZANIEL: And did you find an  
9 owner there?

10 INVESTIGATOR LAWSON: No.

11 MS. ZANIEL: And did you find an  
12 ABC manager there?

13 INVESTIGATOR LAWSON: No.

14 MS. ZANIEL: What were you told?

15 INVESTIGATOR LAWSON: I was told  
16 that one was not present on the premises. And  
17 during the visit, I observed sales of  
18 alcoholic beverages.

19 MS. ZANIEL: And do you recall who  
20 you spoke to on that occasion?

21 INVESTIGATOR LAWSON: I don't  
22 remember the name.

1 MS. ZANIEL: Okay. I would like  
2 to show you what is marked as Government's  
3 Exhibit 1. Can you tell us what this is,  
4 please?

5 INVESTIGATOR LAWSON: This is the  
6 Alcoholic Beverage Regulation Administration  
7 case report that I prepared for the Lion's  
8 Fine Wine & Spirits incident.

9 MS. ZANIEL: And did you prepare  
10 this after you had gone to the establishment  
11 on March 24?

12 INVESTIGATOR LAWSON: Yes.  
13 (Whereupon, the document was  
14 marked as Government Exhibit 1 for  
15 identification.)

16 MS. ZANIEL: And can you just take  
17 a look at it and see if it refreshes your  
18 memory as to whom you spoke to on Saturday,  
19 March 24, 2012?

20 INVESTIGATOR LAWSON: Yes. I  
21 spoke to Ryan Cho.

22 MS. ZANIEL: Okay. Now, what did

1           you do after you found there was no ABC  
2           manager or owner present?

3                         INVESTIGATOR LAWSON: I gave the  
4           reminder letter to Mr. Cho and I explained to  
5           him the ABC manager requirement and I  
6           explained to him how to obtain an ABC  
7           manager's license or how any of the employees  
8           that were there could obtain an ABC manager's  
9           license and I left the premises.

10                        MS. ZANIEL: On March 26, 2012,  
11           did you have occasion to go back to that same  
12           establishment, Lion's --

13                        INVESTIGATOR LAWSON: Yes.

14                        MS. ZANIEL: -- Fine Wine &  
15           Spirits?

16                        INVESTIGATOR LAWSON: Yes.

17                        MS. ZANIEL: And why did you go  
18           back?

19                        INVESTIGATOR LAWSON: To issue a  
20           citation for the no ABC manager violation that  
21           occurred on March 24, 2012.

22                        MS. ZANIEL: And when you got

1           there on March 26th, did you find an owner on  
2           duty?

3                           INVESTIGATOR LAWSON:   No.

4                           MS. ZANIEL:   Was there an ABC  
5           manager on duty?

6                           INVESTIGATOR LAWSON:   No.

7                           MS. ZANIEL:   And do you recall  
8           with whom you spoke on that occasion?

9                           INVESTIGATOR LAWSON:   It's Pedro  
10          Mendoza.

11                          MS. ZANIEL:   And what, if  
12          anything, did he tell you regarding the  
13          manager?

14                          INVESTIGATOR LAWSON:   He told me  
15          that neither the ABC manager or owner was on  
16          the premises, at that time.

17                          MS. ZANIEL:   Okay.  I would like  
18          to introduce into evidence Government's 1.

19                          CHAIRPERSON MILLER:   Okay.  And  
20          Government's Exhibit 1 is the case report  
21          prepared by Mr. Lawson, correct?

22                          MS. ZANIEL:   Yes.

1 CHAIRPERSON MILLER: Okay. That  
2 is admitted.

3 (Whereupon, the document marked as  
4 Government Exhibit 1 was received  
5 in evidence.)

6 MS. ZANIEL: That's all the  
7 evidence the Government has.

8 CHAIRPERSON MILLER: Okay. Are  
9 there questions by Board Members? Not hearing  
10 any, thank you very much, Mr. Lawson.

11 (Whereupon, witness was excused.)

12 CHAIRPERSON MILLER: Okay. Do you  
13 have a closing?

14 MS. ZANIEL: Yes.

15 CHAIRPERSON MILLER: Okay.

16 MS. ZANIEL: Madam Chair and Board  
17 Members, the no ABC manager on duty is a  
18 secondary offense and, therefore, I would ask  
19 that a fine be imposed of \$350 on both  
20 charges.

21 However, I would also ask for at  
22 least a one or two day suspension. I mean, it

1 appears, based on the Government's evidence,  
2 that there was no ABC manager or owner on duty  
3 and that was the subsequent offense, the  
4 second one that was charged was simply two  
5 days after Investigator Lawson had been there  
6 and informed the people of the need to have a  
7 manager on duty and informed how others could  
8 get so-qualified if necessary.

9 And of course, the non-appearance  
10 here today, it concerns me that the licensee  
11 is not making a diligent effort to follow the  
12 rules and be in compliance with the laws of  
13 the District of Columbia.

14 And, therefore, I would ask for a  
15 two day suspension as well as the fine.

16 CHAIRPERSON MILLER: I just want  
17 to ask you with respect to your recommendation  
18 for a suspension, is it based on your  
19 conclusion that this licensee should be  
20 punished more because he hasn't shown  
21 diligence in complying, including coming here  
22 or is it based on that you think that the

1 establishment poses some kind of a danger to  
2 the public because this person isn't being  
3 diligent enough?

4 MS. ZANIEL: No, it's the former.

5 CHAIRPERSON MILLER: Former.

6 Additional --

7 MS. ZANIEL: I mean, in actuality,  
8 there is potential for danger when you don't  
9 follow the rules. And I have always -- the  
10 Government feels that the requirement to have  
11 a manager or owner on duty is to ensure that  
12 things are done correctly in the first  
13 instance. So it has a very significant role  
14 with respect to the whole regulatory scheme.

15 But my recommendation is based  
16 more on the fact that I believe as shown by  
17 the two incidents as well as the non-  
18 appearance today, that there is some concern  
19 that they are not diligently following through  
20 and being the best compliant licensee.

21 CHAIRPERSON MILLER: Okay.

22 MS. ZANIEL: Of course, it's the

1 Board's decision --

2 CHAIRPERSON MILLER: Correct.

3 MS. ZANIEL: -- and authority to  
4 impose whatever sanction it sees fit.

5 CHAIRPERSON MILLER: Correct. And  
6 I just wanted to find out your rationale. And  
7 I want to ask one more question on that.

8 MS. ZANIEL: Certainly.

9 CHAIRPERSON MILLER: I believe  
10 that the statute allows for a greater fine  
11 than \$350 for this offense. Is that correct?

12 MS. ZANIEL: I don't have the  
13 rules in front of me and I think it's maybe  
14 the rules rather than the statute and I don't  
15 know for certain.

16 CHAIRPERSON MILLER: Like our  
17 penalties.

18 MS. ZANIEL: Certainly there --

19 CHAIRPERSON MILLER: And  
20 regulation.

21 MS. ZANIEL: -- if it permits a  
22 greater penalty, that may be an appropriate

1 resolution to the Government's concern as  
2 opposed to a suspension.

3 CHAIRPERSON MILLER: Okay.

4 MS. ZANIEL: In other words, I  
5 would favor a greater fine if the Board felt  
6 the suspension was inappropriate.

7 CHAIRPERSON MILLER: Okay. But  
8 would you favor a suspension over a greater  
9 fine?

10 MS. ZANIEL: I think a suspension  
11 gets people's attention. And so I think it's  
12 an effective tool to use.

13 CHAIRPERSON MILLER: Okay. Thank  
14 you. Any questions? Okay. So that concludes  
15 your case, right?

16 MS. ZANIEL: Yes, thank you.

17 CHAIRPERSON MILLER: And do you  
18 wish to file proposed findings of facts and  
19 conclusions of law?

20 MS. ZANIEL: I wish not to.

21 CHAIRPERSON MILLER: Okay. So you  
22 waive your right to do so?

1 MS. ZANIEL: I certainly do.

2 Thank you.

3 CHAIRPERSON MILLER: Okay. Thank  
4 you very much.

5 MS. ZANIEL: I'll pass up these  
6 exhibits.

7 CHAIRPERSON MILLER: Okay. All  
8 right. I'm just going to take a vote on the  
9 Board deliberating on this case in closed  
10 session.

11 MS. ZANIEL: I'm excused?

12 CHAIRPERSON MILLER: Yes, you can  
13 leave.

14 MS. ZANIEL: Thank you.

15 CHAIRPERSON MILLER: Okay. Thank  
16 you. As Chairperson of the Alcoholic Beverage  
17 Control Board for the District of Columbia and  
18 in accordance with DC Official Code Section 2-  
19 574(b) of the Open Meetings Act, I move that  
20 the ABC Board hold a closed meeting today for  
21 the purpose of seeking legal advice from our  
22 counsel on Case No. 12-CMP-00144, Lion's Fine

1 Wine & Spirits, pursuant to Section 2-  
2 574(b)(4) of the Open Meetings Act and  
3 deliberating upon this case for the reasons  
4 cited in Section 2-574(b)(13) of the Open  
5 Meetings Act.

6 Is there a second?

7 MEMBER BROOKS: Second.

8 CHAIRPERSON MILLER: Mr. Brooks  
9 has seconded the motion. I'll now take a roll  
10 call vote on the motion now that it has been  
11 seconded.

12 Mr. Brooks?

13 MEMBER BROOKS: I agree.

14 CHAIRPERSON MILLER: Mr. Alberti?

15 MEMBER ALBERTI: I agree.

16 CHAIRPERSON MILLER: Ms. Miller  
17 agrees.

18 Mr. Silverstein?

19 MEMBER SILVERSTEIN: I agree.

20 CHAIRPERSON MILLER: It appears  
21 that the motion has passed by a 4-0-0 vote.  
22 I hereby give notice that the ABC Board will

1 hold a closed meeting on this case today in  
2 the ABC Board conference room pursuant to  
3 Section 2-574(b) of the Open Meetings Act.

4 Okay. That concludes that case.

5 (Whereupon, the Show Cause Hearing  
6 in the above-entitled matter was concluded at  
7 11:08 a.m.)

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<b>A</b>	<b>believe</b> 3:2 12:16 13:9 <b>best</b> 12:20 <b>Beverage</b> 1:2,13,13 5:10,16 7:6 15:16 <b>beverages</b> 6:18 <b>Board</b> 1:2,13 3:19 4:5 5:16 10:9,16 14:5 15:9,17,20 16:22 17:2 <b>Board's</b> 13:1 <b>Brooks</b> 1:19 16:7,8 16:12,13 <b>Building</b> 1:14	<b>coming</b> 11:21 <b>communication</b> 2:17 <b>compliance</b> 11:12 <b>compliant</b> 12:20 <b>complying</b> 11:21 <b>concern</b> 12:18 14:1 <b>concerns</b> 11:10 <b>concluded</b> 17:6 <b>concludes</b> 14:14 17:4 <b>conclusion</b> 11:19 <b>conclusions</b> 14:19 <b>conducted</b> 5:14 <b>conference</b> 17:2 <b>confused</b> 3:21 <b>Consumer</b> 5:5 <b>contacted</b> 3:8,10 <b>Control</b> 1:2,13,13 5:16 15:17 <b>correct</b> 9:21 13:2,5 13:11 <b>correctly</b> 12:12 <b>counsel</b> 4:14 15:22 <b>course</b> 11:9 12:22	<b>DONALD</b> 1:19 <b>draw</b> 5:6 <b>duly</b> 4:15 <b>duties</b> 5:12 <b>duty</b> 1:10 9:2,5 10:17 11:2,7 12:11	<b>follow</b> 11:11 12:9 <b>following</b> 12:19 <b>follows</b> 4:17 <b>form</b> 3:20 4:6 <b>former</b> 12:4,5 <b>found</b> 8:1 <b>front</b> 13:13	
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