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GOVERNMENT OF THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

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IN THE MATTER OF: :
Bardo, LLC, : Case # 15-CMP-00396
t/a Bardo :
1200 Bladensburg Road NE :
License #90430 :
Retailer CT ANC 5D :
Wednesday, March 9, 2016 :

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Wednesday, March 9, 2016

Whereupon, the above referenced matter
came on for hearing at the Alcoholic Beverage
Control Board, Reeves Center, 2000 14th Street,
N.W., Suite 400 S, Washington, D.C. 20009.

1 CHAIRPERSON: DONOVAN ANDERSON, Presiding

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3 MEMBERS OF THE BOARD

4 NICK ALBERTI, BOARD MEMBER

5 RUTHANNE MILLER, BOARD MEMBER

6 JAMES SHORT, BOARD MEMBER

7 MIKE SILVERSTEIN, BOARD MEMBER

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9 OTHER PERSONS PRESENT

10 BILL STEWART

11 FERNANDO RIVERO, ESQUIRE

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P R O C E E D I N G S

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CHAIRPERSON ANDERSON: We're back on the record. The next case is Case #15-CMP-00396, Bardo, License #90430, would the parties please approach and identify themselves for the record, please.

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MR. RIVERO: Good afternoon, board members. Fernando Rivero for the District of Columbia.

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MR. STEWART: Bill Stuart for Bardo.

CHAIRPERSON ANDERSON: Good afternoon and thank you for your patience. Are there any preliminary matters in this case?

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MR. RIVERO: Not really.

CHAIRPERSON ANDERSON: All right. Would the government wish to make an opening statement?

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MR. RIVERO: Yes. Good afternoon, board members. We're here in the show cause matter of Bardo, LLC, trading as Bardo, located at 1216 Bladensburg Road Northeast in Washington, D.C. Show cause notice issued in this matter concerns

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1 the charge that the licensee permitted the
2 establishment to operate without the presence of
3 a board-approved manager or owner in violation of
4 district law. It is our belief with
5 preponderance of the evidence that the licensee
6 did, in fact, commit this violation. The parties
7 are in agreement that in view of the
8 investigator's testimony, that the government had
9 intended to present, that the investigator's case
10 report, Case #15-CMP-00396 will be introduced
11 into evidence and the government will rest and we
12 will move to closing arguments.

13 CHAIRPERSON ANDERSON: Are you in
14 agreement? Do you have any objection to -- do
15 you have any objections to the introduction of
16 the -- the -- the investigator's report --

17 MR. STEWART: No, sir.

18 CHAIRPERSON ANDERSON: -- as number one.
19 All right. Do you have any representation. The
20 government made its representation. Do you have
21 any representation to make before we move to
22 closing arguments?

1 MR. STEWART: Well, as the government
2 said, an investigator did show up and I was not
3 there and they issued a violation notice. So,
4 we're in agreement with that.

5 CHAIRPERSON ANDERSON: Okay, so you're in
6 -- all right. Fine, then we will move to -- what
7 is it -- what is it that the government is
8 requesting as regarding penalties.

9 MR. RIVERO: Regarding closing argument,
10 the government recommends a fine of \$350.

11 CHAIRPERSON ANDERSON: Of how much?

12 MR. RIVERO: Of \$350. Thank you.

13 CHAIRPERSON ANDERSON: Just a quick
14 question. Hold on one minute please. I just --
15 why does the government, and you can just let me
16 know -- why the \$350?

17 MR. RIVERO: \$350 is within the legal
18 range of the fine that is permitted by law for
19 this violation, meaning first time, secondary
20 tier violation. The penalty by statute is
21 anywhere between \$250 and \$500. \$350 is within
22 that range. Therefore, it's legally allowable.

1 CHAIRPERSON ANDERSON: All right, so the
2 government is requesting that \$350 range. What
3 is it that forces you're in agreement that
4 there's a violation and so as far as your closing
5 argument, what is it that you -- you have to say
6 for yourself and what is it that you ask --
7 you're asking the board to do?

8 MR. STEWART: Well, basically I, my son,
9 wrecked his skateboard, I had to go to the
10 hospital, so I was not there. ABRA's come about
11 once a month for 24 months so it's been about 24
12 times that they've showed up, we've had wrong
13 paperwork order, haven't had a problem. The one
14 time I was not there, unfortunately, they did
15 show up. We corrected it. The man who was on
16 the premises, the head bartender, Michael
17 Landman, he was in the process of getting his
18 manager's card. I have his manager's card now,
19 so basically I guess the theme is it's when the
20 police pull you over and your headlight's out and
21 he says, "you know, get your headlight fixed,"
22 you know, "come back to court and we'll throw

1 this ticket out," so I just wanted to say that,
2 you know, yes, clearly she showed up, she's
3 correct, but we've corrected the problem. We're
4 trying to move forward in compliance and so
5 that's basically our theme.

6 CHAIRPERSON ANDERSON: So what is it that
7 you want us to do? Should we fine you the \$350?
8 I mean, the fine range is fined between \$200 --
9 \$250 or \$500 or I guess a discretionary warning.
10 What is it you're asking the board to do, sir?

11 MR. STEWART: Well, I guess since it's
12 our first offense and there's been 24 times these
13 guys have come and we've been in compliance, I
14 would just like a discretionary warning, but I
15 mean if you feel a fine is appropriate. I don't
16 really know how ABRA works, so I don't know what
17 your standard operating procedure is.

18 CHAIRPERSON ANDERSON: But I gave you the
19 range, so you need to tell me -- I gave you the
20 law says what we can do --

21 MR. STEWART: Yeah.

22 CHAIRPERSON ANDERSON: And so, we're

1 going to go back there and discuss it and so,
2 therefore, you need to let me know what it is
3 that you want me to do. I mean, should we go
4 vote and the \$350 that's on the table, or are you
5 proposing something else? You tell me what is it
6 that you're proposing and then we'll decide what
7 we're going to do based on what the law requires.

8 MR. STEWART: Okay, well, like I said,
9 we've tried to correct the problem, we have --
10 we're in compliance, Michael has his manager
11 license now, there's myself and my brother who
12 are owners, so we have three people now, instead
13 of just two. So, I would hope to just have a
14 discretionary warning since it's our first
15 offense, but it's up to you guys, really.

16 CHAIRPERSON ANDERSON: It's always up to
17 us.

18 MR. STEWART: I don't know what to say.

19 CHAIRPERSON ANDERSON: It is always up to
20 us. All I'm asking is to convince us to say this
21 is what we should do, why and what we [inaudible
22 7:19:08] I'm giving you lots of clues, it's like

1 you're doing your closing and I'm just saying to
2 you that if that's the way you want it to be then
3 we'll probably do that.

4 Mr. Chairman, I don't want to argue the
5 case here, but I think the gentleman's honesty
6 has spoken to me.

7 CHAIRPERSON ANDERSON: Well yeah. I mean
8 -- I understand that. I'm sorry, yes.

9 MR. RIVERO: I need to just -- a pro
10 forma objection needs to be lodged and the record
11 says during legal argument. I understand the
12 licensee is pro se and not represented, but the
13 licensee has essentially presented facts and
14 testimony in his legal argument that ABRA has
15 visited the establishment 24 times. I would ask
16 that the board understand that that is not really
17 evidence in the record, that's all.

18 CHAIRPERSON ANDERSON: Okay. Well thank
19 you for your representation. I guess I need to
20 conduct -- would the parties want to rest on the
21 record or did they want to do conclusions of law
22 and --

1 MR. STEWART: Rest!

2 CHAIRPERSON ANDERSON: I have to ask. I
3 have to ask. All right, so just give me one
4 minute, please.

5 MR. Alberti: I think Mr. Rivero said no,
6 is that correct?

7 MR. RIVERO: The government waits.

8 CHAIRPERSON ANDERSON: Okay. I'm sorry.
9 All right Chair points out that Alcoholic
10 Beverage Control Board for the District of
11 Columbia in accordance with section 45 of the
12 Open Meetings Amendment Act of 2010, I move that
13 ABC board hold a closed meeting for the purpose
14 of seeking legal advice from our counsel on case
15 #125-CMP-00396 Bardo, pursuant to section 45 B4
16 of the Open Meetings Amendment Act of 2010 and
17 deliberation upon case #15-CMP-00396, Bardo, for
18 the reasons cited in Section 405 B13 of the Open
19 Meetings Amendment Act of 2010. Is there a
20 second?

21 MR. ALBERTI: Second.

22 CHAIRPERSON ANDERSON: Mr. Alberti

1 seconded the motion. I now take a roll call vote
2 on the motion before us. Ms. Miller. I agree.
3 Mr. Alberti. I agree. Mr. Short: I agree. Mr.
4 Silverstein: I agree. Mr. Anderson: I agree.
5 AS it appears that the motion has passed I hereby
6 give notice that the ABC board will hold a closed
7 meeting in the ABC board conference room pursuant
8 to the Open Meetings Amendment Act of 2010 and
9 issue an order within 90 days. Thank you. We'll
10 issue an order within -- the statute says 90
11 days, but we will issue an order shortly,
12 forthwith.

13 MR. STEWART: Thanks for your time.

14 MR. RIVERO: Thank you.

15 MR. ALBERTI: Ms. Phillips, we told Kim -

16 MS. PHILLIPS: Thank you.

17 (Whereupon the above-entitled matter was
18 concluded.)

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