



**ALSO PRESENT:**

**INVESTIGATOR NICOLE LANGWAY, ABRA**

**AMY SCHMIDT, OAG**

C-O-N-T-E-N-T-S

Opening Statement by Government. . . . . 6  
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WITNESS

DIRECT CROSS BOARD

Nicole Langway                      8                      15

EXHIBITS

IDENTIFIED RECEIVED

GOVERNMENT

1 - Langway ROI                      11  
 2 - Settlement Agreement                      11  
 4 - Black Plastic Bags Photo                      14  
 3 - Small Clear Plastic Bags                      13

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

2 2:25 p.m.

3 CHAIRPERSON ANDERSON: We will now go  
4 back to our regular schedule. The next case that  
5 I will be calling is a Show Cause Hearing, Case  
6 No. 17-CMP-00664, Economy Market, License No.  
7 94127.

8 Will the parties, please, approach and  
9 identify themselves for the record, please?

10 MS. SCHMIDT: Good afternoon. Amy  
11 Schmidt, Assistant Attorney General on behalf of  
12 the District of Columbia.

13 CHAIRPERSON ANDERSON: And, Ms.  
14 Schmidt, I see that there is no licensee here.  
15 Do you have a representation? Have you had any  
16 conversation with the licensee? Do you --

17 MS. SCHMIDT: Not since the Status  
18 Hearing.

19 CHAIRPERSON ANDERSON: And they were  
20 here for the Status Hearing?

21 MS. SCHMIDT: Yes, they were. I  
22 believe they were, yes.

1 CHAIRPERSON ANDERSON: They were here  
2 for the Status Hearing.

3 MS. SCHMIDT: Maybe they --

4 CHAIRPERSON ANDERSON: I don't have my  
5 book.

6 MS. SCHMIDT: I can't remember now.  
7 I thought he was. I was here, I know that much,  
8 but --

9 CHAIRPERSON ANDERSON: All right. All  
10 right. Well, this hearing was originally  
11 scheduled for 1:30. Based on our schedule, it is  
12 -- the hearing is -- it's now 2:26 and the  
13 hearing is starting at 2:26. So, therefore, the  
14 licensee is an hour late for this hearing and  
15 there has been no -- we have not received any  
16 information from the licensee to say that he  
17 would not appear.

18 Therefore, pursuant to DC Official  
19 Code § 25 -- let me ask a question. Is the  
20 Government willing to move forward today?

21 MS. SCHMIDT: Yes, we are ready to  
22 proceed.

1                   CHAIRPERSON ANDERSON: All right. So  
2 pursuant to DC Official Code § 25-447, the Board  
3 has the authority to proceed ex-parte where the  
4 licensee waives the hearing or fails to appear,  
5 unless the hearing is extended for good cause and  
6 sufficient cause.

7                   All right. The Board's record  
8 reflects that the licensee was properly served on  
9 December 14, 2017. Seeing no licensee here today  
10 and having no good and sufficient cause to extend  
11 this hearing, the Board will proceed with the  
12 Show Cause Hearing.

13                   Ms. Schmidt, do you wish to make an  
14 opening statement?

15                   MS. SCHMIDT: Just very briefly that  
16 today the Government will show that on September  
17 27, 2017 at approximately 10:40 a.m.,  
18 Investigator Nicole Langway of the Alcoholic  
19 Beverage Regulation Administration made a  
20 regulatory inspection at Economy Market located  
21 at 1804 D Street, N.E., in Washington, D.C.  
22 pursuant to a complaint.

1           And while she was there, she observed  
2           that the licensee was in violation of their  
3           settlement agreement because they were selling --  
4           they were not providing clear plastic bags for  
5           sales of single -- single sales of alcohol.

6           And when she asked to see the  
7           settlement agreement, the ABC Manager on duty at  
8           the time was unable to produce that agreement,  
9           which is also a violation, which is a violation  
10          of 25-823(6), and the first violation is for 25-  
11          701(a).

12          Therefore, the Government will show  
13          that the licensee was in violation of those  
14          provisions.

15                   CHAIRPERSON ANDERSON: Does the  
16          Government wish to call -- have a witness?

17                   MS. SCHMIDT: Yes, the Government  
18          calls Investigator Nicole Langway.

19                   CHAIRPERSON ANDERSON: Ms. Langway,  
20          can you raise your right hand, please?

21          Whereupon,

22                                   INVESTIGATOR NICOLE LANGWAY

1 was called as a witness by Counsel for the  
2 Government, and having been first duly sworn,  
3 assumed the witness stand and was examined and  
4 testified as follows:

5 INVESTIGATOR LANGWAY: Yes.

6 CHAIRPERSON ANDERSON: All right.

7 Have a seat. Your witness.

8 DIRECT EXAMINATION

9 BY MS. SCHMIDT:

10 Q Investigator Langway, could you state  
11 your name for the record?

12 A Nicole Langway.

13 Q And by whom are you employed?

14 A ABRA.

15 Q And in what capacity are you employed?

16 A I'm an ABRA Investigator.

17 Q And how long have you been an ABRA  
18 Investigator?

19 A For about a year and a half.

20 Q Okay. And on September 27, 2017, were  
21 you at the Economy Market located at 1804 D  
22 Street, N.E., in Washington, D.C.?

1           A       Yes.

2           Q       And why did you go there?

3           A       I went there as a follow-up to an  
4 email complaint alleging that there were  
5 settlement agreement violations.

6           Q       What sort of settlement agreement  
7 violations?

8           A       One of them was that they were selling  
9 alcohol and placing them in black bags instead of  
10 clear bags.

11          Q       So what happened when you got there?

12          A       I introduced myself as an ABC -- as an  
13 ABRA Investigator to the ABC Manager. I stated  
14 that I was there to conduct a regulatory  
15 inspection and asked for her assistance.

16          Q       And what did the ABC Manager -- how  
17 did she help you?

18          A       Of course. So during the  
19 investigation, I asked the ABC Manager about  
20 their settlement agreement. The ABC Manager was  
21 unaware of the settlement agreement. I explained  
22 to her it was the agreement that the

1 establishment and the community made together and  
2 anything outlined in that agreement needed to be  
3 followed by the establishment.

4 I then pulled out my copy of the  
5 settlement agreement and showed it to her and  
6 reviewed some of the items in the settlement  
7 agreement.

8 Q Did you -- did she try to -- did you  
9 ask her where the settlement agreement was  
10 located in the vicinity?

11 A She did not know what it was.

12 Q Okay.

13 A I then asked her about what they use  
14 for bags.

15 Q Okay.

16 MS. SCHMIDT: May I, please, approach  
17 the witness?

18 CHAIRPERSON ANDERSON: Yes, go ahead.

19 BY MS. SCHMIDT:

20 Q I'm going to give you a copy of the  
21 Investigative Case Report, could you tell the  
22 Board for the record what that is?

1           A       The case report I wrote in regards to  
2 Economy Market.

3                               (Whereupon, the above-  
4 referred to document was  
5 marked as Government Exhibit  
6 No. 1 for identification.)

7           BY MS. SCHMIDT:

8           Q       Okay. And could you, please, go --  
9 and is there a copy of the settlement agreement  
10 attached to that report?

11           A       Yes. The settlement agreement is  
12 Exhibit No. 2.

13                               (Whereupon, the above-  
14 referred to document was  
15 marked as Government Exhibit  
16 No. 2 for identification.)

17           BY MS. SCHMIDT:

18           Q       And what does it say? Okay. So and  
19 what does it say in the settlement agreement  
20 about bagging?

21           A       So No. 1 on the settlement agreement  
22 on page 5 states that "Clear bags must be used

1 for all purchases of single sales of beer, malt  
2 liquor, ale, wine or fortified wine."

3 Q And did you -- and when you showed  
4 this to the clerk, to the ABC Manager, what did  
5 she say about it?

6 A She was unaware about it.

7 Q And did you ask them about the bags  
8 they used?

9 A I did. I asked them if they had any  
10 clear bags present at the establishment. The ABC  
11 Manager indicated that they did have small clear  
12 bags that they used for incense only. I asked  
13 her about --

14 Q Well, how big were those clear bags?

15 A You could only hold -- I would  
16 guesstimate that you could only hold incense. It  
17 wasn't much bigger than what would have been that  
18 size, I suppose.

19 Q Could you put a single sale -- could  
20 you put a single alcohol -- put a single  
21 container of alcohol in there?

22 A No.

1 Q And also in that exhibit I gave you,  
2 could you, please, refer to Exhibit No. 4?

3 A Yes, yes.

4 Q And what is that exhibit, what is that  
5 a picture of?

6 A These are the black plastic bags that  
7 the ABC Manager stated that she placed all  
8 purchases into, other than those incense.

9 (Whereupon, the above-  
10 referred to document was  
11 marked as Government Exhibit  
12 No. 4 for identification.)

13 BY MS. SCHMIDT:

14 Q And who did you -- who took that  
15 photograph?

16 A I did.

17 Q Does it accurately depict what you saw  
18 that day?

19 A Yes.

20 Q And so what else happened when you  
21 told her -- when you spoke about the bags to her?

22 A She -- what else happened? Well, she

1       showed me the incense bags, the clear plastic  
2       bags and the black bags as well.

3               Q       And could you go to Exhibit No. 3?  
4       Are those the plastic bags?

5               A       Yes.

6                               (Whereupon, the above-  
7                               referred to document was  
8                               marked as Government Exhibit  
9                               No. 3 for identification.)

10                           BY MS. SCHMIDT:

11               Q       And how big are they? They look big  
12       there. Are they -- is this an accurate -- did  
13       you take this photograph?

14               A       I did.

15               Q       And does this accurately depict what  
16       you saw that day?

17               A       Yes.

18               Q       Okay.

19               A       This picture I don't believe you could  
20       -- well, maybe you could fit one single beer in  
21       there, but you would not be able to fit wine or  
22       alcohol -- or a six-pack of beer in this.

1           Q       Okay.  So did anything else occur  
2 while you were there?

3           A       During the inspection, I also  
4 witnessed the ABC Manager make a sale of beer to  
5 a customer and she placed that beer in a black  
6 plastic bag prior to giving it to the customer.

7           Q       And was this -- okay.  No further --  
8 and -- oh, when she saw the settlement agreement,  
9 did she seem familiar with the settlement  
10 agreement?

11          A       I don't believe so.

12                   MS. SCHMIDT:  No further questions.

13                   CHAIRPERSON ANDERSON:  Any questions?  
14 Go ahead, Mr. Short.

15                   MEMBER SHORT:  Investigator Langway,  
16 your testimony is while you were there doing your  
17 regulatory inspection, you had inquired about the  
18 color of bags being used and while you were  
19 there, they sold to someone and put it in a black  
20 bag while you were there?

21                   INVESTIGATOR LANGWAY:  Yes, sir.  I  
22 can't remember if I had discussed the settlement

1 agreement before or after the sale of the alcohol  
2 with the black bags, but I did witness that.

3 MEMBER SHORT: Witnessed them serving  
4 in a black bag?

5 INVESTIGATOR LANGWAY: Yes, sir.

6 MEMBER SHORT: All right. Thank you.  
7 That's all I have, Mr. Chair.

8 CHAIRPERSON ANDERSON: Any other  
9 questions by any of the Board Members?

10 Hearing none, thank you, Ms. Langway,  
11 you can step down.

12 INVESTIGATOR LANGWAY: Thank you.

13 (Whereupon, the witness was excused.)

14 CHAIRPERSON ANDERSON: Does the  
15 Government have any other witness?

16 MS. SCHMIDT: No, no, we do not.

17 CHAIRPERSON ANDERSON: Does the  
18 Government wish to make a closing statement?

19 MS. SCHMIDT: The Government has shown  
20 through the testimony of Investigator Langway  
21 that the two violations of the DC Code, first of  
22 all, that the settlement agreement was violated

1 because there were only black plastic bags being  
2 used. And in fact, while she the Investigator  
3 was there, the sale was made using a black  
4 plastic bag.

5 And it also showed that the settlement  
6 agreement was not readily available, because the  
7 alcohol manager was unaware of where it was or  
8 even of its -- was unaware of where it was, let's  
9 leave it at that.

10 Therefore, the Government is asking  
11 that the licensee be fined \$600 per charge in  
12 this matter.

13 CHAIRPERSON ANDERSON: What do you  
14 mean \$600 per charge?

15 MS. SCHMIDT: In other words, Charge  
16 1, a \$600 fine and then Charge 2 a second fine.

17 CHAIRPERSON ANDERSON: And then Charge  
18 2 \$600.

19 MS. SCHMIDT: Yeah.

20 CHAIRPERSON ANDERSON: So that's for  
21 a total of \$1,200?

22 MS. SCHMIDT: A total of \$1,200.

1 CHAIRPERSON ANDERSON: All right.

2 As Chairperson of the Alcoholic  
3 Beverage Control Board for the District of  
4 Columbia and in accordance with Section 405 of  
5 the Open Meetings Amendment Act of 2010, I move  
6 that the ABC Board hold a closed meeting for the  
7 purpose of seeking legal advice from our counsel  
8 on Case No. 17-CMP-00664, Economy Market, per  
9 Section 405(b)(4) of the Open Meetings Amendment  
10 Act of 2010, and deliberating upon Case No. 17-  
11 CMP-00664, Economy Market, for the reasons cited  
12 in Section 405(b)(13) of the Open Meetings  
13 Amendment Act of 2010.

14 Is there a second?

15 MEMBER SHORT: Second.

16 CHAIRPERSON ANDERSON: Mr. Short has  
17 seconded the motion. I will now take a roll call  
18 vote on the motion before us now that it has been  
19 seconded.

20 Mr. Cato?

21 MEMBER CATO: I agree.

22 CHAIRPERSON ANDERSON: Mr. Alberti?

1 MEMBER ALBERTI: I agree.

2 CHAIRPERSON ANDERSON: Mr. Short?

3 MEMBER SHORT: I agree.

4 CHAIRPERSON ANDERSON: Mr.

5 Silverstein?

6 MEMBER SILVERSTEIN: I agree.

7 CHAIRPERSON ANDERSON: Mr. Anderson?

8 I agree.

9 As it appears that the motion has  
10 passed, I hereby give notice that the ABC Board  
11 will hold a closed meeting in the ABC Board  
12 conference room pursuant to the Open Meetings  
13 Amendment Act of 2010 and issue an order within  
14 90 days.

15 I'm sorry, Ms. Schmidt, I failed to  
16 ask you, which -- I never asked you whether or  
17 not you wish to file proposed findings of fact --

18 MS. SCHMIDT: No, thank you.

19 CHAIRPERSON ANDERSON: -- and -- okay.

20 I just wanted to make sure that I did ask you  
21 that and officially close the record.

22 So the record is closed. I did read

1 the closed meeting.

2 MS. SCHMIDT: Yes.

3 CHAIRPERSON ANDERSON: All right. So  
4 this matter is recessed and thank you for being  
5 here today.

6 MS. SCHMIDT: Okay. Thank you.

7 CHAIRPERSON ANDERSON: Okay.

8 (Whereupon, the Show Cause Hearing was  
9 concluded at 2:38 p.m.)

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A	B		extended 6:5
<p><b>a.m</b> 6:17  <b>ABC</b> 7:7 9:12,13,16,19  9:20 12:4,10 13:7  15:4 18:6 19:10,11  <b>able</b> 14:21  <b>above-</b> 11:3,13 13:9  14:6  <b>ABRA</b> 2:11 8:14,16,17  9:13  <b>Accessible</b> 1:11  <b>accurate</b> 14:12  <b>accurately</b> 13:17 14:15  <b>Act</b> 18:5,10,13 19:13  <b>Administration</b> 6:19  <b>advice</b> 18:7  <b>afternoon</b> 4:10  <b>agree</b> 18:21 19:1,3,6,8  <b>agreement</b> 1:10,11 3:17  7:3,7,8 9:5,6,20,21,22  10:2,5,7,9 11:9,11,19  11:21 15:8,10 16:1,22  17:6  <b>ahead</b> 10:18 15:14  <b>Alberti</b> 1:20 18:22 19:1  <b>alcohol</b> 7:5 9:9 12:20  12:21 14:22 16:1 17:7  <b>Alcoholic</b> 1:2,15,15  6:18 18:2  <b>ale</b> 12:2  <b>alleging</b> 9:4  <b>Amendment</b> 18:5,9,13  19:13  <b>Amy</b> 2:12 4:10  <b>ANC</b> 1:7  <b>Anderson</b> 1:17,19 4:3  4:13,19 5:1,4,9 6:1  7:15,19 8:6 10:18  15:13 16:8,14,17  17:13,17,20 18:1,16  18:22 19:2,4,7,7,19  20:3,7  <b>appear</b> 5:17 6:4  <b>appears</b> 19:9  <b>approach</b> 4:8 10:16  <b>approximately</b> 6:17  <b>April</b> 1:13  <b>asked</b> 7:6 9:15,19 10:13  12:9,12 19:16  <b>asking</b> 17:10  <b>assistance</b> 9:15  <b>Assistant</b> 4:11  <b>assumed</b> 8:3  <b>attached</b> 11:10  <b>Attorney</b> 4:11  <b>authority</b> 6:3  <b>available</b> 17:6</p>	<p><b>B</b> 1:7  <b>back</b> 4:4  <b>bag</b> 15:6,20 16:4 17:4  <b>bagging</b> 11:20  <b>bags</b> 3:18,19 7:4 9:9,10  10:14 11:22 12:7,10  12:12,14 13:6,21 14:1  14:2,2,4 15:18 16:2  17:1  <b>Based</b> 5:11  <b>beer</b> 12:1 14:20,22 15:4  15:5  <b>behalf</b> 4:11  <b>believe</b> 4:22 14:19  15:11  <b>Bella</b> 1:6  <b>Beverage</b> 1:2,15,15  6:19 18:3  <b>big</b> 12:14 14:11,11  <b>bigger</b> 12:17  <b>black</b> 3:18 9:9 13:6 14:2  15:5,19 16:2,4 17:1,3  <b>Board</b> 1:2,15 3:9 6:2,11  10:22 16:9 18:3,6  19:10,11  <b>Board's</b> 6:7  <b>BOBBY</b> 1:20  <b>book</b> 5:5  <b>briefly</b> 6:15  <b>Building</b> 1:16</p>	<p><b>clerk</b> 12:4  <b>close</b> 19:21  <b>closed</b> 18:6 19:11,22  20:1  <b>closing</b> 3:6 16:18  <b>CMP-00664</b> 18:11  <b>Code</b> 5:19 6:2 16:21  <b>color</b> 15:18  <b>Columbia</b> 1:1 4:12 18:4  <b>community</b> 10:1  <b>complaint</b> 6:22 9:4  <b>concluded</b> 20:9  <b>conduct</b> 9:14  <b>conference</b> 19:12  <b>container</b> 12:21  <b>Control</b> 1:2,15,15 18:3  <b>conversation</b> 4:16  <b>copy</b> 1:10 10:4,20 11:9  <b>counsel</b> 8:1 18:7  <b>course</b> 9:18  <b>CROSS</b> 3:9  <b>customer</b> 15:5,6</p>	<p><b>F</b></p> <p><b>fact</b> 17:2 19:17  <b>failed</b> 1:10 19:15  <b>fails</b> 6:4  <b>familiar</b> 15:9  <b>file</b> 19:17  <b>findings</b> 19:17  <b>fine</b> 17:16,16  <b>fined</b> 17:11  <b>first</b> 7:10 8:2 16:21  <b>fit</b> 14:20,21  <b>follow-up</b> 9:3  <b>followed</b> 10:3  <b>follows</b> 8:4  <b>fortified</b> 12:2  <b>forward</b> 5:20  <b>further</b> 15:7,12</p>
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In the matter of: Economy Market

Before: DCABRA

Date: 04-25-18

Place: Washington, DC

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