

Capital Reporting Company
In the Matter of: Redline DC, LLC 08-15-2012

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DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

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IN THE MATTER OF: :
 :
Redline DC, LLC :
t/a Redline :
707 G Street, NW :
Retailer CR : Fact Finding
License No. 85225 : Hearing
ANC 2C :
Case No. 12-CMP-00225 :
Failed to File Quarterly :
Statements, Impeded an ABRA :
Investigation by Providing False:
Identification, Failed to Obtain:
Importation Permit :
-----x

August 15, 2012

The Alcoholic Beverage Control

Board met in the Alcoholic Beverage Control Hearing
Room, Reeves Building, 2000 14th Street, N.W.,
Washington, D.C., Ruthanne Miller, Chairperson,
presiding.

PRESENT

RUTHANNE MILLER, Chairperson

NICK ALBERTI, Member

DONALD BROOKS, Member

HERMAN JONES, Member

CALVIN NOPHLIN, Member

MIKE SILVERSTEIN, Member

ALSO PRESENT

ROXANNA MAISEL, ABRA

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

2 11:21 a.m.

3 CHAIRPERSON MILLER: The next case on the
4 Board's morning agenda is Case No. 12-CMP-00225,
5 Redline, located at 707 G Street, N.W., License No.
6 85235. It's a fact finding hearing. Good morning
7 still.

8 Would you introduce yourselves for the record
9 when you're ready, please?

10 MS. MAISEL: I'm Investigator Maisel of the
11 Alcoholic Beverage Regulation Administration.

12 MR. FONSECA: Michael Fonseca on behalf of
13 the Licensee.

14 MR. DADLANI: Mick Dadlani, owner of Redline.

15 CHAIRPERSON MILLER: Okay. Okay. This is a
16 fact finding hearing. We're not taking any evidence,
17 no testimony under oath or anything like that. It's
18 possible though sometimes these proceedings can lead to
19 a show cause if some type of violations become apparent
20 but not necessarily.

21 So I think that there's some confusion with
22 respect to ownership of this establishment. I'm going

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1 to let the Board members, you know, speak to any
2 specific questions they have. But Mr. Fonseca, you
3 look like you may be ready?

4 MR. FONSECA: We can. We will. I was just
5 curious because -- since the Chair did say there would
6 be no evidence taken, are there -- any of the other
7 issues raised by the -- in the -- that's not part of
8 the --

9 MR. BROOKS: Go ahead. Go ahead.

10 MR. FONSECA: Are any of the other issues
11 that were raised -- because we do have documentary
12 evidence of some matters. So I wasn't sure or not if -
13 - but if it's only going to go to the issue of the
14 purported representation of ownership, then we aren't
15 prepared to, you know, to address that.

16 CHAIRPERSON MILLER: Uh-huh.

17 MR. ALBERTI: Madam Chair, would it would
18 help - - be helpful to me at least if we heard the
19 report from the investigator first. I think that would
20 -- at least it would help me sort of frame the issue of
21 --

22 CHAIRPERSON MILLER: I'm happy --

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1 MR. ALBERTI: -- of this hearing.

2 CHAIRPERSON MILLER: -- happy to proceed
3 however -- whatever worked best here. Ms. Maisel,
4 would you -- would you like to do that?

5 MS. MAISEL: Sure.

6 CHAIRPERSON MILLER: Okay.

7 MS. MAISEL: It would be my pleasure. Thank
8 you, Madam Chair. Again, I'm ABRA Investigator Roxanna
9 Maisel. I'm here with reference to the violation
10 occurring at Redline, located at 707 G Street, N.W.
11 Date of violation is March 28th, 2012. On March 15th,
12 2012 the ABRA compliance analyst provided the ABRA
13 Enforcement Division with a list of establishments that
14 had failed to file their quarterly statements.

15 Redline was on that list. On March 28th,
16 2012 I went to Redline to advise them of the quarterly
17 statement violation and to conduct a regulatory
18 inspection, which includes a books and records check.
19 I spoke to Reymond Fabrice (ph), Eric Francois (ph),
20 who I will call Mr. Francois. He stated that he was
21 the owner. I advised Mr. Francois that the quarterly
22 statement violation for the period October 1st, 2011

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1 through December 31st, 2011 was the reason of my visit.

2 I also conducted a regulatory inspection.

3 Through the course of my regulatory inspection, Mr.

4 Francois produced out-of-state invoices from JW Sieg

5 Wines out of Charlottesville, Virginia -- the date of

6 that invoice was March 28th, 2012 -- and an invoice

7 from Five Grapes, LLC, which is located in Vineburg,

8 California, and has a payment address in McLean,

9 Virginia. The date of that invoice was January 4th,
10 2012.

11 I asked Mr. Francois for the ABRA permit to
12 transport alcoholic beverage forms for the out-of-state
13 invoices. Mr. Francois stated he did not have them
14 because he threw them away. I advised Mr. Francois
15 that an ABRA permit to transport alcoholic beverages
16 forms are required for out-of-state invoices. I
17 completed my regulatory inspection and I did not find
18 any additional ABRA violations at that time.

19 Upon review ABRA files back at ABRA, I
20 observed that, according to the application summary of
21 ownership documents, which were filed July 15th, 2012,
22 Mick Dadlani is listed as 100 percent owner of Redline.

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1 This made Mr. Francois's March 28th, 2012 statement to
2 Investigator Maisel that he was the owner false. I
3 determined, therefore, that Mr. Francois had interfered
4 with the investigation of an ABRA investigator by
5 representing himself as the owner.

6 Additionally, because Mr. Francois was
7 determined to not be an owner, I determined that there
8 was no ABC manager or owner at Redline when I visited
9 on March 28th, 2012, which is an additional violation.
10 So in summary, at the conclusion of the -- of my
11 investigation, I determined that Redline had the
12 following violations: failure to file the quarterly
13 statement for the period October 1st, 2011 through
14 December 31st, 2011, the failure to produce ABRA
15 permits to transport alcoholic beverage forms for the
16 out-of- state invoices, no ABC manager or owner on the
17 premises, and interfering with the investigation of an
18 ABRA investigator.

19 Those are the facts in this investigation.

20 CHAIRPERSON MILLER: Thank you. Any Board
21 questions?

22 MR. ALBERTI: I have a quick question. Ms.

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1 Maisel, on the no ABC manager --

2 MS. MAISEL: Uh-huh.

3 MR. ALBERTI: -- how do you know there was no
4 -- I mean, I know you talked to Mr. Francois. And so I
5 don't know what the -- you know, what you asked him
6 specifically. So could there possibly have been a
7 manager there and you -- and you just -- your
8 conversations it wasn't revealed or you -- or you tell
9 me what went on -- what went on.

10 MS. MAISEL: Well, I came in, identified
11 myself as an ABRA investigator to a female hostess. I
12 said, "I need to speak with the ABC manager or owner."
13 She got Mr. Francois. Mr. Francois said he was the
14 owner. So when someone identifies himself as an ABC
15 manager or an owner, I take them at their word --

16 MR. ALBERTI: Okay.

17 MS. MAISEL: -- and assume that they are who
18 they say they are.

19 MR. ALBERTI: That's helpful. Thank you.

20 CHAIRPERSON MILLER: Mr. Fonseca?

21 MR. FONSECA: Yes. Okay. Let's start with
22 the first fact that you've asserted from your report.

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1 You indicated that there wasn't the third -- the fourth
2 quarterly report for the calendar year 2011 filed. How
3 did you go about confirming that other than getting the
4 list from an enforcement check?

5 MS. MAISEL: I got a list of establishments
6 that had failed to file their quarterly statements from
7 the ABRA compliance analyst and he does this every
8 quarter.

9 MR. FONSECA: Okay. Did you do a records
10 check before you left to visit the establishment?

11 MS. MAISEL: I don't understand. What do you
12 mean by records check?

13 MR. FONSECA: I'm going to show you a
14 document that is an auto-reply. And if staff would, I
15 have copies for the Board. That's an email auto-reply
16 to an online filing of that report with a record
17 number. And is it correct that it indicates that that
18 quarterly report was filed on January 30th, 2012?

19 MS. MAISEL: I'm not familiar with this
20 system. It's dated January 30th, 2012 at the top but I
21 don't know -- I've not -- I haven't seen this kind of
22 document before.

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1 MR. FONSECA: Is this -- since this is a fact
2 finding, I will summarize. The Board -- the ABRA's
3 database has a notify at QuickBase.com. That occurs
4 when you do online quarterly report filings. So the
5 premise of the initial visit was an enforcement for
6 failure to file. This indeed had been filed. The
7 record ID, 779, is the correct one. Myself, I've
8 confirmed this over a month ago with the Board's
9 records manager, Mr. Hager. So this was in the system.
10 Having said that, that's the first of the issues.

11 The two import permits, we can see that there
12 was not a production of the one for Five Grapes and for
13 JW -- I don't know how to pronounce that --

14 MR. DADLANI: Sieg.

15 MR. FONSECA: -- Sieg. But I know this
16 investigator will be familiar with what they look like
17 and I'll give the Board copies. Is that -- does that
18 appear to be the JW Sieg import permit?

19 MS. MAISEL: Which JW Sieg import permit?

20 MR. FONSECA: All right. If I may again just
21 ask the Board to look at this document? I'll represent
22 that the line -- the permits issued to Redline, the

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1 supplier, JW Sieg, the date of the application is
2 3/28/12. The beverages that are indicated and paid for
3 are the same that are on the invoice and the
4 investigator's report.

5 I will acknowledge that her photograph of
6 these invoices make it difficult to read but I will
7 make the affirmative representation on the record that
8 this import permit matches the invoice. So the stock
9 and the dates correspond. Having said that, we have
10 conceded that on the date of her inspection, this was
11 not produced. But we're trying to let the Board
12 understand that permits are regularly -- import permits
13 are regularly obtained for their out-of-state
14 purchases.

15 The second document that we've submitted --
16 and this one --

17 CHAIRPERSON MILLER: Mr. Fonseca, I'm sorry,
18 what -- I just got handed the three documents.

19 MR. FONSECA: All right.

20 CHAIRPERSON MILLER: So --

21 MR. FONSECA: This yellow -- this yellow
22 document --

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1 CHAIRPERSON MILLER: Okay.

2 MR. FONSECA: -- or goldenrod --

3 CHAIRPERSON MILLER: Yeah.

4 MR. FONSECA: -- is the permit -- the import
5 permit in question as to the JW Sieg vendor.

6 CHAIRPERSON MILLER: Okay.

7 MR. FONSECA: Okay.

8 CHAIRPERSON MILLER: Uh-huh.

9 MR. FONSECA: It's -- it was -- I mean, this
10 is what ABRA issues. This is what's supposed to travel
11 with the beverages. It serves both as an importation
12 permit for collection of the taxes in front, the excise
13 wholesale level taxes, and it also serves as the
14 transportation permit, as the investigator said. So
15 it's -- it is supposed to travel with the product and
16 delivered along at the time of delivery.

17 Our representation will be that this was done
18 in compliance with the letter of the requirements of
19 the regulations. As to the recordkeeping, we'll have
20 to leave that to the Board to determine as to its --

21 MR. DADLANI: We weren't able to furnish it
22 at the time of the request but we did comply with the

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1 law. We just didn't have it when she came.

2 MR. FONSECA: And the --

3 CHAIRPERSON MILLER: Okay.

4 MR. FONSECA: -- second documents I'm going
5 to give you -- I'll let the investigator see it. So
6 she -- so she may not be familiar with this either.
7 But on the front end, when the vendors come in and
8 sometimes the retailers when they're self-importing,
9 they will file the import permit. Staff signs off on
10 it and you pay. And what I've presented to the Board
11 there is the invoice in the collection of -- in the
12 collection of the fee.

13 The import permit is \$5 for each permit. And
14 then the taxes reflected based on the form. It -- I
15 will purport here -- and it's clear from the cash
16 register receipt -- that this is one in the same, the
17 bill and the receipt for Five Grapes. It is -- the
18 cash register receipt is on January 6th, 2012. The
19 fact that there's a \$10 amount suggests to me that two
20 permits were filed and paid for that day and the taxes
21 are a total of the combined amount of those two import
22 permits, as far as the taxable collection.

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1 It's our opinion that the one permit we can't
2 provide you is one of the two that were obtained on
3 this date because in the conversations with the -- with
4 the vendor, he says, "When we take the order, that's
5 the date of the invoice. And we usually deliver within
6 three days." This is consistent with obtaining this
7 permit but we just do not have a copy of that permit
8 for the Five Grapes.

9 I'll leave that to the Board. Again, we are
10 affirmatively representing that this Licensee always
11 makes sure that their vendors do obtain these permits.
12 And in this instance, we can't produce that permit.
13 And it's regrettable that we cannot produce it. But we
14 have every reason to believe that it was obtained and
15 it was - - the delivery was brought into the district
16 and delivered to the establishment correctly.

17 The owner has emailed me and we had a
18 conversation yesterday that he cannot locate his copy.
19 So, you know, otherwise I would -- I would have brought
20 - - attempted to bring in a copy of this permit. But
21 this satisfies me. I'm not saying it satisfies the
22 Board. In my experience -- my long experience in this

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1 and how this permitting system works, that there's --
2 the likelihood that they did not obtain one of these
3 two permits for Redline is, I think, highly improbable.

4 One of the two that were obtained on that day
5 would coincide with that delivery to Redline.

6 MR. DADLANI: I mean, furthermore, we get --
7 we get deliveries from them and we have every other
8 permit from them. So they do it all the -- I mean,
9 when we get them, it's consistent. We have files and
10 permits for each time. The owner of Five Grapes will
11 testify that we did get the permits. He -- it's --
12 they fired the truck driver that actually didn't
13 produce this permit because he took it by accident and
14 took it home and lost it. So he -- that guy was fired.

15 CHAIRPERSON MILLER: Okay, good.

16 MR. FONSECA: Okay. All right. Lastly, we
17 agree with the inquiry of Member Alberti as to no
18 manager on duty. We don't think the first instance
19 that that can be concluded if there wasn't a records
20 check or a return visit to -- afterwards on the same
21 day to confirm that there wasn't actually a manager. I
22 mean, our position is there was a licensed manager.

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1 Getting to the thornier issue of -- and rightfully so -
2 - the investigator took the word of the -- of Mr.
3 Reymond. And we're ready to deal with that issue now.

4 MR. DADLANI: Sure.

5 MR. FONSECA: And I'll let Mr. Dadlani
6 explain his role -- I mean, his ownership and what his
7 role is and the role of this senior employee.

8 MR. DADLANI: I'd like to address the Board
9 and also to the regulator. I do believe in this
10 situation Fabrice Reymond did misconstrue his -- or
11 misrepresent himself as the owner. And I think that
12 the reason is -- I work at Morgan Stanley full time.
13 I'm not -- I'm not there at the restaurant. Fabrice
14 actually acts on behalf as an owner. He's not
15 technically or legally an owner but every employee at
16 the restaurant refers to him as the owner because he's
17 in charge of all the day-to-day operations.

18 He's basically on my behalf in charge of
19 everything that goes on at Redline. So when you go to
20 a staff meeting and people ask, "Who's the owner of
21 Redline," they never say me. I'm a -- I'm basically a
22 silent owner in the sense that I'm just not there. I'm

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1 an absentee owner. And Fabrice is kind of the face of
2 the place, the operator of the place. He's there all
3 the time.

4 He's also a foreigner who really doesn't
5 understand the legal aspects of saying to somebody that
6 he's the owner but -- and that's also my fault and his
7 fault because really, I call him the owner. He calls
8 himself the owner when it comes to, you know, guests
9 that come in. But legally, he shouldn't be doing that.
10 And I've reprimanded him for that. But he is -- he
11 acts on behalf of me as the owner in terms of day-to-
12 day operations.

13 Legally, we are 100 percent wrong and I
14 apologize to the Board and to the regulators. And we
15 probably misrepresented it but not intentionally or in
16 any malicious manner. It's just that he thinks of
17 himself as the owner. And he does every responsibility
18 that an owner would do at that restaurant. And so when
19 she -- when she came, he basically said, "Yeah, I'm the
20 owner. I run everything." And he basically does.

21 Now, what he should have said is, "I am
22 acting on behalf of the owner. I am -- I'm the guy who

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1 runs this place but I'm not the owner." And I've
2 actually reprimanded him some and it is my fault also
3 because I do call him the owner and the staff thinks
4 he's the owner. So from that perspective, I have to
5 take some responsibility and he has to take some
6 responsibility. But at the end of the day, there was an
7 ABC manager on duty that day and Fabrice was there as
8 well.

9 I don't know if there's anything else I need
10 to add.

11 MR. FONSECA: Yeah, well, I would -- I would
12 -- a couple of things. With that said, we believe that
13 factually there was not an intent or in actuality an
14 interference with an ABRA investigation. There was no
15 effort to not produce the records. There was no effort
16 not to answer questions. There was the
17 misrepresentation. But I don't believe that rises to
18 the level of an attempt to interfere with an ABRA
19 investigation.

20 And this Board well knows the egregious types
21 of interference. And this, I don't think, even passes
22 a level of an innocent -- of an innocent attempt

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1 because there really wasn't any attempt to hide
2 anything other than the misstatement and, frankly,
3 misrepresentation of his status as an owner, which has
4 been corrected.

5 And I will lastly note that as of yesterday,
6 he now -- this individual holds an ABC manager's
7 license. So call him --

8 MR. NOPHLIN: I didn't hear the last
9 statement.

10 MR. FONSECA: Pardon me?

11 MR. NOPHLIN: You faded out.

12 MR. FONSECA: Oh, and as of yesterday, he now
13 holds the position yesterday an ABC manager's license.

14 MR. ALBERTI: Mr. Fonseca, can you make sure
15 your mike's on? The little bar in front. There you go.

16 MR. FONSECA: Yeah, apparently it's not. I
17 did not realize that. I'm so used to this being a dead
18 mike that I was -- I was paying attention to the other
19 one. My apologies. Now, I can sit back. So having
20 said that, I think one thing that I'd say as an
21 editorial is I believe by and far this establishment is
22 well run and now, correctly both with staff and with

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1 the senior employee, run -- well run by an ABC-licensed
2 manager with an owner who participates but isn't there
3 day in and day out.

4 And by and far, if you look at their -- at
5 their investigative history, there's only other -- one
6 other item. So this is someone that does not have to
7 come before you as some of my other clients,
8 unfortunately. And I would just hope, as this being a
9 fact finding, we could look at this as all intent to
10 comply has been met and substantial compliance as to
11 one of the two permits has been made.

12 And we'd be-- we believe a rebuttable
13 presumption that the other permit was issued and is in
14 compliance but for the fact that they're not on the
15 premises at the time of the request -- rightfully so --
16 the authorized request of the investigator because
17 that's part of what they do on a regulatory inspection.

18 CHAIRPERSON MILLER: Okay. I just have a
19 quick question. Did you say that Mr. Francois just got
20 an ABC --

21 MR. FONSECA: Yes.

22 CHAIRPERSON MILLER: -- manager's license?

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1 Who had one otherwise at the establishment?

2 MR. DADLANI: We have a letter from a guy
3 that -- on vacation --

4 MR. FONSECA: Alan.

5 MR. DADLANI: I made him write a letter. So
6 my manager was there. I had an operation manager there.

7 MR. FONSECA: And he's on vacation.

8 CHAIRPERSON MILLER: Oh, so you did -- okay.

9 MR. DADLANI: Yeah, he had someone write a
10 letter.

11 MR. FONSECA: His name was Alan --

12 MR. DADLANI: Resuega (ph).

13 MR. FONSECA: Alan -- well, Palayos was R-E-
14 S-G- A and then a second last name, P-E-L-A-Y-O.

15 CHAIRPERSON MILLER: Oh, okay. And also --
16 so Mr. Francois doesn't have any ownership interest at
17 all?

18 MR. DADLANI: No. Just -- he does not.

19 CHAIRPERSON MILLER: But he --

20 MR. DADLANI: He's day-to-day --

21 CHAIRPERSON MILLER: Facts --

22 MR. DADLANI: He runs the place. I mean, I'm

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1 just not -- I couldn't even tell you how to run the POS
2 system. He basically does everything.

3 CHAIRPERSON MILLER: Okay.

4 MR. DADLANI: He does all the bookkeeping,
5 the accounting. I mean, everything that an owner would
6 do, he does.

7 CHAIRPERSON MILLER: Okay.

8 MR. DADLANI: And that's kind of we got to
9 where we got with the whole, "I'm the owner," thing.

10 CHAIRPERSON MILLER: Yeah, and you are --
11 have 100 percent owner --

12 MR. DADLANI: Correct. I have investors but
13 I'm the managing part of 100 percent.

14 CHAIRPERSON MILLER: Okay. Other questions?
15 Yes, Mr. Jones.

16 MR. JONES: Thank you, Madam Chair. Just for
17 clarification purposes, who was the manager on duty at
18 the time that the investigator conducted her visit?

19 MR. DADLANI: Alan Pelayo.

20 MR. JONES: And --

21 MR. DADLANI: He was that licensed manager.
22 Now, the manager on duty was Mr. Reymond.

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1 MR. JONES: So the --

2 MR. DADLANI: The ABC-licensed manager --

3 MR. JONES: -- ABC-licensed manager as why
4 we're here --

5 MR. DADLANI: Correct.

6 MR. JONES: -- was who?

7 MR. DADLANI: Al --

8 MR. FONSECA: Al -- Alan Resuega Pelaya
9 [sic].

10 MR. DADLANI: Pelayo.

11 MR. FONSECA: We can give you an email or
12 something.

13 MR. JONES: And he was -- he was there --

14 MR. FONSECA: Correct. Yes, he was. That's
15 correct.

16 MR. JONES: -- on the premises?

17 MR. FONSECA: Correct.

18 MR. JONES: Okay.

19 MR. FONSECA: Absolutely.

20 MR. JONES: And how do you know that?

21 MR. DADLANI: Well, I mean, I can do a -- I
22 can give you a punch in clock of, you know, when he was

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1 there, like, time. I mean, I can get you that. You
2 know, people punch in.

3 MR. JONES: So it's a time card?

4 MR. DADLANI: Yeah, like a time card --

5 MR. JONES: All right.

6 MR. DADLANI: -- they've got. And that's all
7 stuff, you know -- it's all done through our restaurant
8 software. So you -- it's tied to a computer. It can't
9 be altered.

10 MR. JONES: I hear -- I hear you. And just
11 for other clarification purposes, you do not have one
12 of the documents? You were making a
13 presumption/assumption based on your knowledge of the
14 industry. But just to be clear, you do not have one of
15 the documents, correct?

16 MR. FONSECA: That is correct.

17 MR. JONES: Okay.

18 MR. FONSECA: That is correct. I thought I
19 had made that clear but I --

20 MR. JONES: Well, you used a lot of words.

21 MR. FONSECA: -- abundantly clear. Yes.

22 MR. JONES: You used a lot of words. I just

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1 wanted to make sure -- I'm not that smart so I just
2 wanted to make sure I follow.

3 MR. FONSECA: I get -- I get paid by the
4 word.

5 MR. DADLANI: We have a copy that shows they
6 purchased the permits.

7 MR. JONES: Understood. But you do not have --

8 MR. FONSECA: The actual permit.

9 MR. DADLANI: That's right.

10 MR. JONES: -- the actual document?

11 MR. FONSECA: Correct, correct. And that's
12 why the --

13 MR. JONES: That's all, I want to make sure
14 I'm clear.

15 MR. DADLANI: Their driver got fired, yeah.

16 MR. FONSECA: And Member Jones, as late as
17 6:00 last night I was on the phone with the owner
18 trying to track down that permit. So even the --
19 apparently the Five Grapes does not have a copy on it.

20 MR. JONES: Understood. Thank you, Madam
21 Chair.

22 CHAIRPERSON MILLER: You're welcome. Others?

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1 Ms. Maisel, do you have any other comments based on
2 what you've heard from Mr. Fonseca?

3 MS. MAISEL: No, thank you.

4 CHAIRPERSON MILLER: Okay. And Mr. Fonseca,
5 did you give Ms. Maisel the documents that you provided
6 the Board that you said you brought with you?

7 MR. FONSECA: I showed those to her. I --
8 frankly, I think I took back the receipt. Otherwise,
9 I'll get both of those to her so she'll have it. And --

10 MS. MAISEL: Thank you.

11 MR. FONSECA: -- if the Board -- if one of
12 the Board members can get me a copy of the -- of the
13 receipt, then I'll make sure. But I'm sure I can go
14 back in the email again and reprint it. But that way,
15 I'll have what I said --

16 MR. ALBERTI: Yeah, Ms. Walker will get you
17 copies and --

18 MR. FONSECA: Oh, thank you. Yeah.

19 CHAIRPERSON MILLER: Okay. Any other
20 comments or Board members' questions?

21 (No audible response.)

22 CHAIRPERSON MILLER: Comments on how you want

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1 to proceed at this point?

2 MR. ALBERTI: I'd like to take a moment to
3 get legal advice on this matter, Madam Chair.

4 CHAIRPERSON MILLER: Do you want to retire to
5 the --

6 MR. ALBERTI: I make a motion that we adjourn
7 to get legal advice on this matter. But I believe that
8 motion needs to be made through the Open Meetings
9 Amendment Act procedure. So, I mean, I can make the
10 motion if you'd like but usually the Chair does.

11 CHAIRPERSON MILLER: Okay. Go ahead. If you
12 have it before you. Otherwise I could just --

13 MR. ALBERTI: Might take me a moment. I
14 wasn't prepared. I apologize.

15 CHAIRPERSON MILLER: No? Then I'll do it.
16 Okay. As Chairperson of the Alcoholic Beverage Control
17 Board for the District of Columbia and in accordance
18 with Section 405 of the Open Meetings Amendment Act of
19 2010, I move that the ABC Board hold a closed meeting
20 for the purpose of seeking legal advice from our
21 counsel on the fact finding hearing, Case No. 12-CMP-
22 00225, Redline, per Section 405(b) of the Open Meetings

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1 Amendment Act of 2010 and deliberating if appropriate
2 for the reasons cited in Section 405(b)(13) of the Open
3 Meetings Amendment Act of 2010.

4 Is there a second?

5 MR. NOPHLIN: Second.

6 CHAIRPERSON MILLER: Mr. Nophlin, roll call?

7 MR. NOPHLIN: I agree.

8 CHAIRPERSON MILLER: Mr. Brooks?

9 MR. BROOKS: I agree.

10 CHAIRPERSON MILLER: Mr. Alberti?

11 MR. ALBERTI: I agree.

12 CHAIRPERSON MILLER: Ms. Miller agrees. Mr.
13 Silverstein?

14 MR. SILVERSTEIN: I agree.

15 CHAIRPERSON MILLER: Mr. Jones?

16 MR. JONES: I agree.

17 CHAIRPERSON MILLER: This appears the motion
18 has passed by a vote of 6-0. I hereby give notice that
19 the ABC Board will hold a closed meeting in the ABC
20 Board conference room right now on that issue. So
21 we'll return shortly.

22 MR. ALBERTI: We're off the record, Madam

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1 Chair.

2 (WHEREUPON, at 11:50 a.m., the hearing went
3 off record until 11:51 a.m.)

4 CHAIRPERSON MILLER: Okay. We are back on
5 the record. And as I began this hearing saying that
6 this is a fact finding hearing and there were different
7 issues out there and we're just hearing to determine
8 what action should be taken with respect to questions
9 that we had regarding the different issues. So based
10 on what we heard from the fact finding, the quarterly
11 reports, what we are -- well, we took a vote on this.

12 And this is -- when you put them all together
13 -- the Board wants to put them all together --
14 quarterly reports based on what was submitted, we're
15 just going -- we'd like to send them back to
16 enforcement just to verify that the quarterly reports
17 were in fact submitted then. With respect to permits
18 and the ABC manager, there's not conclusive information
19 on them. So we are going to send them to the Office of
20 Attorney General to investigate further and have -- the
21 parties can make, you know, talk with the OAG on that.

22 That doesn't say if -- we don't see any

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1 reason to do anything further with respect to the
2 ownership question and any obstructing investigation.
3 We don't see anything to pursue there. So that's
4 nothing -- anything. Do the Board members have anything
5 else to add to my synopsis as to what we are choosing
6 to do with the different issues? Then I would make a
7 motion that this case proceed in a way that I'm going
8 to be dealing with the issues in different -- in those
9 different ways.

10 Do I have a second?

11 MR. NOPHLIN: Second.

12 CHAIRPERSON MILLER: Any questions or
13 comments?

14 (No audible response.)

15 CHAIRPERSON MILLER: Just for the benefit of
16 Mr. Alberti, who has just joined us, we're about to
17 vote as a package on how to proceed with the different
18 issues. And I stated that the issue of quarterly
19 reports would be referred back to Enforcement for -- to
20 verify, that the issue of permits and ABC manager would
21 be sent to OAG for their investigation further, and
22 that there is no -- that we find no further action

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1 necessary with respect to obstructing the investigation
2 and the ownership issue.

3 MR. ALBERTI: Okay. I --

4 CHAIRPERSON MILLER: Yeah, you have something
5 you can --

6 MR. ALBERTI: Well, just -- I was just -- on
7 the permits issue --

8 CHAIRPERSON MILLER: Uh-huh.

9 MR. ALBERTI: Did you mention that?

10 CHAIRPERSON MILLER: Uh-huh. Permits
11 (inaudible).

12 MR. ALBERTI: Okay. Thank you. And I
13 appreciate that, Madam Chair. And I apologize --

14 CHAIRPERSON MILLER: Uh-huh.

15 MR. ALBERTI: -- for being late.

16 CHAIRPERSON MILLER: No problem.

17 MR. ALBERTI: Thank you.

18 CHAIRPERSON MILLER: Okay. Then there's been
19 a motion that's been seconded. All those in favor, say
20 aye?

21 (Chorus of ayes.)

22 CHAIRPERSON MILLER: All those opposed?

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1 (No audible response.)

2 CHAIRPERSON MILLER: All those abstaining?

3 (No audible response.)

4 CHAIRPERSON MILLER: Then the vote is 6-0-0

5 to approve the motion. Okay. Thank you very much.

6 Yes, Mr. Fonseca.

7 MR. FONSECA: Just one clarification? This
8 is a little different than typical where the Board
9 refers to the OAG for a notice to show cause. This one
10 you're referring it for further investigation. Can one
11 conclude then if OAG decides not to charge, then that's
12 their investigation? Because it was phrased
13 differently than I've heard before.

14 CHAIRPERSON MILLER: Well, okay. And I don't
15 want to get in too much trouble. But sometimes we even
16 refer to show cause or we're not sure that the person
17 is certainly -- that you're guilty of the charge. And
18 so it's almost the same thing that they -- let them
19 look at the evidence that's there. You know, we
20 weren't holding a hearing. We just weren't conclusive.

21 MR. FONSECA: Okay.

22 CHAIRPERSON MILLER: Certainly where -- about

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1 the ownership and the obstruction of justice, for
2 instance. I mean, that the investigation was
3 conclusive. So therefore, we're not sending any of that
4 to OAG. Does that help?

5 MR. FONSECA: Somewhat.

6 CHAIRPERSON MILLER: Okay?

7 MR. FONSECA: Thank you.

8 MR. JONES: The intent's the same.

9 MR. ALBERTI: The intent -- yeah.

10 MR. FONSECA: Yeah, I gather -- I gathered
11 that.

12 MR. ALBERTI: Yes.

13 MR. JONES: All right.

14 MR. ALBERTI: And it's the OAG'S
15 determination as to whether to --

16 CHAIRPERSON MILLER: Proceed. Okay.

17 MR. FONSECA: Thank you.

18 CHAIRPERSON MILLER: Thank you.

19 MR. FONSECA: Thank you, Board.

20 MR. DADLANI: Thank you.

21 (WHEREUPON, at 11:55 a.m., the hearing was
22 concluded.)

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