

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :
 :
Rodman's Wisconsin, Inc. :
t/a Rodman's Discount :
Spirits :
4936 Wisconsin Ave NW : Fact Finding
Retailer A - ANC 3E : Hearing
License No. 108215 :
 :
(ABC Board request a Fact:
Finding Hearing Regarding:
Safekeeping. See Board :
Order No. 2021-879) :
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Wednesday
February 9, 2022

The Alcoholic Beverage Control Board
met via WebEx videoconference, Chairperson
Donovan W. Anderson presiding.

PRESENT:
DONOVAN W. ANDERSON, Chairperson
BOBBY CATO, JR., Member
RAFI ALIYA CROCKETT, Member
EDWARD S. GRANDIS, Member
JENI HANSEN, Member
JAMES SHORT, JR., Member

ALSO PRESENT:

SARAH FASHBAUGH, DC ABRA Staff
ANDREW KLINE, Applicant's Counsel
NOLAN RODMAN, Applicant

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

2 11:11 a.m.

3 CHAIRPERSON ANDERSON: The next case
4 on our calendar is a fact finding hearing from
5 Rodman's Discount Spirits, License No. 108215.

6 Ms. Fashbaugh, can you please elevate
7 the rights of Mr. Rodman in this case, please.

8 MS. FASHBAUGH: I'm elevating the
9 rights of Andrew Kline and Nolan Rodman. That's
10 all, Mr. Chair.

11 CHAIRPERSON ANDERSON: Thank you.

12 Good morning. Mr. Kline, can you
13 please state your name for the record, please?

14 MR. KLINE: Yeah, of course. Good
15 morning, Mr. Chairman. Andrew Kline, A-N-D-R-E-
16 W, Kline, K-L-I-N-E.

17 CHAIRPERSON ANDERSON: Mr. Kline, did
18 you provide us with -- I know that you have
19 previously represented this licensee but, for
20 this particular case, did you provide us an
21 appearance notice?

22 MR. KLINE: I did not. I was engaged
23 literally this morning but I'm happy to do that.
24 This situation is fast moving at this point as we
25 will discuss.

1 CHAIRPERSON ANDERSON: Mr. Rodman, can
2 you please spell and state your name for the
3 record, please.

4 MR. RODMAN: Nolan Rodman.

5 CHAIRPERSON ANDERSON: I cannot hear
6 you, Mr. Rodman.

7 MR. RODMAN: Can you hear me now?

8 CHAIRPERSON ANDERSON: Yes, sir. It's
9 a little better. It appears there's some
10 interference. That's why I'm having some issues.
11 I cannot hear you, Mr. Rodman.

12 MR. RODMAN: Okay. Can you hear me
13 better?

14 CHAIRPERSON ANDERSON: No. Are you on
15 another line, sir? Are you on -- is there
16 another open line there?

17 MR. RODMAN: No other open lines.
18 Hello. Can you hear me better now?

19 CHAIRPERSON ANDERSON: I can hear you
20 but I can't see you. All right. Mr. Rodman, can
21 you please spell and state your name for the
22 record, please.

23 MR. RODMAN: Nolan Rodman, N-O-L-A-N,
24 Rodman, R-O-D-M-A-N.

25 CHAIRPERSON ANDERSON: Now, Mr.

1 Rodman, Mr. Kline is on the line and he has not
2 provided us with a Notice of Hearing. Is Mr.
3 Kline representing you in this matter, sir?

4 MR. RODMAN: Yes, sir.

5 CHAIRPERSON ANDERSON: Mr. Kline, I
6 know that you know so I will ask that in the
7 future even if it's two minutes prior to the
8 hearing, sir, that you put in a Notice of
9 Appearance to the Agency so we are aware of your
10 representation, sir. All right?

11 MR. KLINE: Yes, Mr. Chairman.

12 CHAIRPERSON ANDERSON: Mr. Nolan --
13 where is Mr. Rodman?

14 MR. RODMAN: Here.

15 CHAIRPERSON ANDERSON: I can't see you
16 so I don't know what happened.

17 MR. RODMAN: I have no camera on this
18 computer unfortunately.

19 CHAIRPERSON ANDERSON: All right.
20 Now, part of the issue that I -- if you're going
21 to testify, sir, I would -- what I would ask,
22 sir, is that -- I have an issue that I was having
23 before. The issue I was having before is that
24 your voice was very low so I want to see you if
25 you're going to testify today, sir, since you

1 have that ability.

2 If you are able to -- if you're able
3 to log in on the other equipment where we could
4 see you and just turn the volume off on that --
5 turn the volume off on that equipment, then we
6 can move forward. That's what I'll ask that you
7 do, sir. Log back into the other computer where
8 we can see you and make sure that you turn the
9 volume off and then we'll use your volume on this
10 other computer, sir.

11 MR. RODMAN: Sure. I have the other
12 one available. I think I just need to be able to
13 share my camera.

14 CHAIRPERSON ANDERSON: Ms. -- I'm not
15 sure, Ms. Fashbaugh, are you able to allow him
16 to --

17 MR. RODMAN: Yeah, I'm good.

18 CHAIRPERSON ANDERSON: All right,
19 fine. Yes. I can now see you. Speak again, Mr.
20 Rodman.

21 MR. RODMAN: Sorry, speak again? Can
22 you hear me?

23 CHAIRPERSON ANDERSON: Yeah, I want to
24 make sure that I can hear you. Okay, that's
25 fine. All right.

1 So this is where we are. I just want
2 to bring everyone up to speed. This is a license
3 that has been in safekeeping for a number of
4 years. Mr. Rodman had sent in a request
5 extending -- asking for another six months to
6 keep his license in safekeeping.

7 The Board, however, decided that we
8 were not going to grant an additional six months.
9 The six months was suppose to have been concluded
10 March 30th so we had decided that we were not
11 going to continue this license in safekeeping
12 because it has not been utilized over the last
13 several years.

14 In order for the Board to formally
15 cancel it at a hearing, we now have a contested
16 fact-finding hearing. At this hearing the Board
17 will make a determination whether or not we will
18 continue to -- whether or not we will grant the
19 six months to contest --

20 I'm sorry, to keep the license in
21 safekeeping until March 31, 2022 or we will
22 uphold our decision to cancel the license.
23 That's where we are today. Mr. Kline is
24 representing you so representation where we are
25 and then we can decide if we're going to take

1 testimony.

2 Mr. Kline, where are we, sir?

3 MR. KLINE: Yes. Mr. Chairman, I'm
4 unaware that this was scheduled for a contested
5 fact-finding hearing. The agenda does not --

6 CHAIRPERSON ANDERSON: Mr. Kline, it's
7 unfortunately -- it's unfortunate that you
8 decided -- that you were just retained this
9 morning for this case but Mr. Rodman is clearly
10 aware of the purpose of this hearing.

11 Mr. Rodman is aware that he had
12 requested a routine six-month extension of his
13 license in safekeeping and the Board denied that
14 matter, denied granting this six months through
15 March 31, 2022. Therefore, since the Board
16 denied his request to keep his license in
17 safekeeping, Mr. Rodman requested this hearing,
18 sir.

19 I am unaware why he did not inform you
20 of the basis of this hearing, sir, but Mr. Rodman
21 is the one who requested this hearing basically
22 to tell the Board that the Board was wrong in
23 denying his request for a six-month extension
24 through March 31, 2022.

25 MR. KLINE: Be that as it may, Mr.

1 Chair, as I was going to say, in looking at the
2 agenda, which I did immediately upon being
3 contacted about this matter, there is not any
4 indication it's a contested matter.

5 In any event, I'm hoping that with the
6 information I'm going to relay to you that the
7 Board will be satisfied and we can move forward.

8 As you and other members of the Board
9 may or may not recall, as you state, this license
10 has been in safekeeping for several years. At
11 one point there was a discussion, and I think
12 even a fact-finding hearing, concerning the
13 presence of another store within 400 feet of the
14 location of Rodman's which has existed here for
15 many, many years and is well thought of in the
16 community, a store by the name of Paul's Liquors.

17 It is determined, and was determined,
18 rightfully so because my office checked, that
19 Paul's Liquors is, indeed, within 400 feet of the
20 Rodman's location. We learned this past weekend
21 and, in fact, I have the email from Paul's that I
22 can share, that begins, "Dear Friends of Paul's:
23 With mixed emotions we share with you the news
24 that Paul's Wine and Spirits will be closing its
25 operation at the end of February."

1 What we would request is that Rodman
2 be given more than 15 days to file either a
3 transfer of the Class A license into the Rodman
4 store with the understanding that it cannot be
5 issued unless and until Paul's Liquors actually
6 closes because I think we are all aware of the
7 ramifications of the 400-foot rule and the Board
8 has had previous rulings with respect to that.

9 Or the more efficient way to handle
10 it, in my way of thinking although, as I said, I
11 want to discuss this with licensing, is simply to
12 file a Class Change Request to convert the
13 current Rodman's B license to an A license.

14 Whichever process licensing prefers,
15 or the Board prefers, or the directive prefers,
16 we will follow and that will be done within 15
17 days such that this license will then be in a
18 position to move forward to be put in use, which
19 we understand is what the Board desires, that it
20 either be put in use or cancelled.

21 If it's not going to be put in use,
22 once we're in that process, then you would expect
23 placards to issue relatively quickly. We'll then
24 begin working with the community to see whether
25 there are any issues with respect to the

1 conversion of the license from a B to an A and
2 see if there are issues.

3 If there are, try to get them resolved
4 and otherwise be back before you for a protest
5 hearing if the license conversion is, indeed,
6 protested. Either a conversion or a transfer,
7 from our standpoint we get to the same place if
8 the Board will allow us to do that. It's just a
9 question of what paperwork would need to be
10 filed.

11 The conversion would seem to be more
12 efficient but, again, I would leave the licensing
13 director, and you and the other members of the
14 Board, in terms of the appropriate weight to
15 proceed in this situation.

16 CHAIRPERSON ANDERSON: All right.
17 There are some questions that I have, or that the
18 Board has, that I think needs to be -- that I
19 think needs to be responded to. Now, it's my
20 understanding a Class A license if -- all right.

21 Rodman currently has a Class B license
22 and it was recently changed to a full-service
23 grocery specifically to add the restaurant inside
24 and the Class A cannot have a restaurant serving
25 alcohol inside so I'm trying to find out if this

1 licensing -- and also a Class A license cannot be
2 a full-service grocery so what is it that --
3 what's going to happen with this A?

4 I think that's part of the problem.
5 I mean, I think what you're saying is that they
6 tend to take this A into their current business.
7 If they want to transfer into their current
8 location, what type of license are they planning
9 to have? If they plan to have an A in their
10 current location, there's some problems with
11 that.

12 MR. KLINE: Understood. Indeed, if
13 the A is approved and issued and that prevents
14 them from other licenses, then that license would
15 have to be surrendered, specifically the D. We
16 understand that. So, I mean, there is no
17 intention not to comply with the law.

18 Rodman's has a desire to convert its
19 license from a B to an A for many years and was
20 not able to do that because of the presence of
21 Paul's. With Paul's going away, then they would
22 be allowed to do that, to pursue that, and would
23 try to make that happen.

24 First, this appearance before you to
25 resolve the issues with respect to the license in

1 safekeeping and, second, to file either a
2 transfer or a conversation as is deemed
3 appropriate by licensing the director and/or the
4 Board to get them the A. If that means they have
5 to surrender the D, then they will surrender the
6 D.

7 CHAIRPERSON ANDERSON: Any questions
8 by any Board Members of the -- any question by --
9 I'm sorry. I'm trying to do too many things at
10 one time. Any questions -- I guess are there any
11 questions that the Board Members have?

12 I mean, if Mr. Rodman is -- I know
13 he's represented by counsel. I'm not quite sure
14 if counsel -- if Mr. Rodman will speak but if
15 there are questions that Board Members have
16 specifically of Mr. -- well, if there are
17 questions that Board Members have, they can ask
18 of Mr. Kline.

19 If Mr. Kline is unable to answer the
20 question and if Mr. Kline wishes to testify, I'll
21 swear the client in to ask him if Mr. -- that's
22 only if Mr. Kline has -- Mr. Kline is unable to
23 answer the questions and if he believes that it's
24 in his client's best interest to respond.

25 However, because the client is being

1 represented by counsel, there is no obligation
2 for him to respond to speak unless he and the
3 attorney decides that he will respond. That's
4 just by operation of law. I mean, if you have an
5 attorney, the attorney speaks for you.

6 If the attorney is unable to answer
7 the question, then if the attorney wants the
8 client to respond directly, or the client and the
9 attorney can have communication to determine
10 whether or not they need to answer that question,
11 I will offer them that -- I will offer that to
12 them. Anyway, any questions then of the Board to
13 Mr. Kline of concerns that they might have based
14 on where we are today?

15 MEMBER SHORT: Mr. Chairman, Mr.
16 Short.

17 CHAIRPERSON ANDERSON: Yes, Mr. Short.
18 Go ahead.

19 MEMBER SHORT: This question is to
20 either the owner or the attorney. I would like
21 to know how many years of business has this A
22 request -- how many years have they been
23 functioning as a business on Wisconsin Avenue?

24 MR. RODMAN: Originally --

25 CHAIRPERSON ANDERSON: Mr. Rodman,

1 hold on one minute, please. Clearly you didn't
2 hear what I said.

3 MR. RODMAN: He can answer for me. I
4 understand.

5 MR. KLINE: I'll let Mr. Rodman answer
6 that. That's fine.

7 CHAIRPERSON ANDERSON: Hold on. I
8 just want to make sure that everyone knows. So,
9 once again, Mr. Rodman, you don't need to
10 respond. Your attorney can responding but, if
11 you're going to respond, then I'm going to have
12 you -- I'm going to swear you in. Let me swear
13 you in. Raise your right hand, sir. Do you
14 swear or affirm to tell the truth and nothing but
15 the truth? Mr. Rodman?

16 MR. RODMAN: Yes, I swear to tell the
17 truth.

18 CHAIRPERSON ANDERSON: All right.
19 Now, whatever questions are being asked of you,
20 Mr. Rodman, you have an attorney so you need to
21 get guidance from your attorney whether you're
22 going to answer the question. Okay, sir?

23 I don't want -- because you and your
24 attorney are not in the same location, your
25 attorney can't tell you whether or not you should

1 or shouldn't respond so I do appreciate the
2 attorney/client privilege and I want to make sure
3 since you have an attorney that if a question is
4 asked, before you answer, sir, you take
5 instructions from Mr. Kline whether or not you're
6 going to answer or he's going to answer.

7 Okay? As an attorney I'm not here
8 trying to favor you but as an attorney I want to
9 make sure that process is protected, sir. Okay?
10 All right. So I guess you're going to respond to
11 the question that was asked by Mr. Short. Mr.
12 Kline said you can go ahead and answer so go
13 ahead and answer the question, sir.

14 MR. RODMAN: The store has been
15 operating on Wisconsin Avenue since 1955 and in
16 this current location at 5100 since 1964..

17 MEMBER SHORT: Thank you. Also, Mr.
18 Rodman, what is your relationship to the
19 community on Wisconsin Avenue and that
20 neighborhood? I might as well ask for the whole
21 District of Columbia. I know a lot of people in
22 my neighborhood travel across town to do business
23 so what is your relationship with the community
24 that you serve at Rodman's on Wisconsin Avenue?

25 MR. KLINE: Please answer that, Mr.

1 Rodman.

2 MR. RODMAN: We've been serving this
3 community as best we can for over 60 years and we
4 feel like we've been good stewards of the
5 neighborhood and of the greater D.C. Washington
6 area. People have very good things to say about
7 us. We hope to continue to do so for a long time
8 in the future.

9 MEMBER SHORT: If granted A, what
10 other services do you deliver from Rodman's to
11 the community? What other products do you
12 provide to the community?

13 MR. RODMAN: A fine assortment of
14 wonderful food items from all around the world,
15 pharmaceuticals, housewares, kitchenwares,
16 bathwares, watch and jewelry repair, home goods,
17 luggage and other things, greeting cards, etc.

18 MEMBER SHORT: Okay. With that being
19 said, do you consider, or does your community
20 consider you an asset to the District of Columbia
21 when it comes to service delivery?

22 MR. RODMAN: Undoubtedly, I would say
23 yes.

24 MEMBER SHORT: Do you think there will
25 be any problem with the ANC or any of your

1 neighbors should this Board grant you an A
2 license?

3 MR. RODMAN: The ANC had already
4 granted us the privilege for an A license and I
5 do believe that it would be in the best interest
6 of the community to allow us to proceed.

7 MEMBER SHORT: I do thank you for your
8 answers and thank you for the services you've
9 provided to the community all these years. Thank
10 you, sir.

11 That's all I have, Mr. Chair.

12 CHAIRPERSON ANDERSON: Thank you.
13 Any questions by any other Board
14 Members?

15 MEMBER CROCKETT: Ms. Crockett.

16 CHAIRPERSON ANDERSON: Go ahead, Mr.
17 Crockett.

18 MEMBER CROCKETT: Mr. Kline, you
19 stated that you want to work with licensing to
20 file something, either a transfer or whatever,
21 within 15 days. Fifteen days from when, sir?

22 MR. KLINE: From today. I mean, we
23 want to move and I know the Board is anxious to
24 see this license move forward so we want to make
25 the commitment that, assuming the Board allows us

1 to move forward, that we will work with licensing
2 if it can be done as a conversion, which I
3 believe would be the most efficient, and still
4 provide the community notice. Then we'll proceed
5 that way. If licensing says they want a full-
6 blown transfer application, then we'll get one
7 together and get it filed.

8 MEMBER CROCKETT: Today and, as far as
9 we know, for the next 15 days, there is still an
10 establishment within 400 feet. Correct?

11 MR. KLINE: Correct. So the plan
12 would be to file the application understanding
13 that the license cannot issue, even if it were
14 approved, if there is another establishment
15 operating within 400 feet of the same class. The
16 Board has dealt with this situation a few times
17 before where applications move through the
18 process.

19 In at least one instance I can think
20 of when it came time for issuance, the license
21 could not issue because, in that case it was a
22 new store that had moved in within 400 feet and
23 prevented a conversion of an existing store from
24 a B to an A.

25 This would not be a situation of first

1 impression and we certainly understand the law,
2 that the license can't issue if there's another A
3 within 400 feet or something else that would
4 prohibit its issuance, but we would request the
5 ability to move forward with the processing of
6 the application understanding that it would only
7 be issued if, indeed, Paul's vacates and ceases
8 operation which it announced in a blast email on
9 Monday they intend to do.

10 MEMBER CROCKETT: Thank you, Mr.
11 Kline.

12 MR. KLINE: Absolutely.

13 MEMBER GRANDIS: Mr. Chairman.

14 CHAIRPERSON ANDERSON: Go ahead, Mr.
15 Grandis.

16 MEMBER GRANDIS: Mr. Kline.

17 MR. KLINE: Yes.

18 MEMBER GRANDIS: Good morning. It's
19 always a pleasure to have you before us.

20 MR. KLINE: Thank you.

21 MEMBER GRANDIS: I believe that you
22 may be working under an assumption that this
23 Board has not made. I don't believe you've
24 represented this client at the last hearing
25 regarding the safekeeping and the extension of

1 the safekeeping of this license.

2 The Board at that time made it very
3 clear that we were not in a position that after
4 March 30th that we would even consider extending
5 this license in safekeeping. Today was an
6 opportunity to have a contested hearing so that
7 this Board can obtain information from Rodman's
8 that gave us confidence that the years that this
9 license has been in safekeeping would not
10 continue.

11 And that while the public may be on a
12 mailing list that Paul's sent out to and, of
13 course, we respect that kind of notice to the
14 public, but this agency has not been notified.
15 This agency has not had any communication that
16 Paul's is going to be turning in its license.

17 I think it's a bit premature to talk
18 about maybe giving you all the 15 days to file
19 something because at this point there's nothing
20 to file as far as we know because there is an
21 active license at that location in spite of what
22 Mr. Paul may be telling the community.

23 MR. KLINE: Okay, two points. One is
24 it would seem in reality that we would have until
25 March 30th to file. Actually -- yes, until March

1 20th to file given, to my understanding, that's
2 when the safekeeping expires.

3 Second point is assuming that is done,
4 we would respectfully request that the
5 safekeeping be extended until the license process
6 can be completed. Third is, yes, I agree with
7 you the fact that Paul's has made a public
8 announcement does not settle the matter finally.

9 However, given what we know and given
10 that our client was -- as was represented to you,
11 I understand, last time, was in negotiations to
12 take over the Paul's space. In fact, I've seen a
13 draft lease so I can represent to the Board that
14 is, indeed, true. I saw a letter of intent and
15 I've seen a draft lease.

16 We are confident that the license will
17 be turned in but, in any event, as I stated
18 previously in response to Ms. Crockett, if the
19 license isn't turned in, then this license could
20 not issue to Rodman's because -- well, no, I take
21 that back.

22 I take that back. The license
23 wouldn't have to be turned in because what the
24 law says is operating so whether Rodman's --
25 whether Paul's turns it in or not, if they cease

1 operations, at that point the license could
2 issue. We think that's all academic at this
3 point.

4 What we're asking is that the Board
5 allow the application to move forward. It's not
6 unprecedented. We've seen it in other cases.
7 Ultimately, I think, the Board's charge is to
8 make sure that they don't issue a license within
9 400 feet of another A license that's currently
10 operating.

11 MEMBER GRANDIS: Mr. --

12 CHAIRPERSON ANDERSON: Mr. Grandis,
13 hold on one minute. I just want to clarify one
14 thing for Mr. Kline.

15 Mr. Kline, the safekeeping ended
16 September 30, 2021. For an additional six months
17 through March 31, 2022 the Board denied that.
18 The safekeeping ended September 30, 2021 so
19 there's no -- we did not grant the safekeeping
20 request through March 31st.

21 MR. KLINE: Understood. I apologize.

22 CHAIRPERSON ANDERSON: Okay.

23 I'm sorry. Go ahead, Mr. Grandis.

24 MEMBER GRANDIS: Mr. Kline, I think we
25 all appreciate your recommendations on how you

1 can move forward for your client in your client's
2 interest but, as the Chairman just stated, this
3 licensee had requested of this Board for a number
4 of years to keep this license in safekeeping.

5 I think you know that the Board has
6 been lenient in doing so for not just this
7 license but others, but statutorily there's an
8 interest in getting licenses out of safekeeping,
9 particularly in a situation where there are caps
10 on licenses as there are, for instance, in a
11 class A. I really appreciate your
12 recommendations but I don't think you're taking
13 into consideration on how this Board has acted in
14 this matter.

15 MR. KLINE: Well, in my experience the
16 Board has always been diligent about not seeing
17 licenses remain in safekeeping indefinitely but
18 has balanced that against people who are acting
19 in good faith and moving forward to try to put
20 the license in service.

21 In this case we have a very definitive
22 plan to do that and it seems very, very likely
23 that will happen. So, I mean, I think what we're
24 requesting to really boil it down specifically is
25 that give us the time by which we must file.

1 Give us an opportunity to get through
2 the process meaning the placarding stage and any
3 protest and working with -- I don't think we're
4 going to be protested but, I mean, I've got --
5 there's a letter I've got to prepare for that and
6 make sure we have time to deal with that.

7 If we don't do what we say we're going
8 to do, then cancel the license. We're not
9 requesting -- I mean, this is much more definite
10 than many -- I'm not going to say any but most of
11 the situations that I've been before the Board on
12 because there's a very concrete plan and there is
13 an endpoint here where this is either going to
14 get done or it's not going to get done.

15 MEMBER GRANDIS: Mr. Kline, you're
16 asking the Board to take a position or allow
17 steps to be taken when there is an active A
18 license within 400 feet. I understand your point
19 about, well, we can at least go ahead and file.
20 I don't know if that's the deposition of this
21 Board.

22 We have been told over quite a period
23 of time that A for Paul's would be turned in or
24 he would cease operations. Yes, you now know
25 that but we don't know that and our agency

1 doesn't know that. I think the Board is inclined
2 to make sure that there is an opportunity for
3 this A to be used.

4 MR. KLINE: It will be used. I mean,
5 there is an opportunity. You know, this
6 licensee, or its principals as the case may be,
7 which have maintained this license paid the fees
8 on it, acted in good faith.

9 They've been diligent about doing
10 this, even to the point where engaged counsel to
11 negotiate a lease for Paul's, a draft of which
12 I've seen and I would be happy to share with the
13 Board if the Board wants to see it, and worked
14 with respect to taking over the Paul's space.
15 That now is not the plan. It changed over the
16 weekend. In fact, I saw the announcement and was
17 in touch with Mr. Rodman because I had worked
18 with him before.

19 Then Monday he got an email as part of
20 a blast email where Paul's announced for the
21 first time -- Paul's has never said before they
22 are going out of business but now they have
23 announced to the community in a rare four-
24 paragraph email that they are going out of
25 business.

1 Now, does that mean they have to? No,
2 but I think it seems pretty likely that's what's
3 going to happen given that no one puts a sword in
4 their heart to their own business and says we're
5 going out of business unless that's what they are
6 going to do. I think it's pretty likely they are
7 going out of business.

8 MEMBER GRANDIS: My last question.
9 Thank you, Mr. Chairman, for letting me have this
10 time. I think I'm a bit more confused. Did you
11 just say that your client was thinking about
12 taking -- okay, taking the lease there and using
13 the A in that location and keeping the license
14 they have in the current location?

15 MR. KLINE: Affiliates, not the same
16 people. We understand the restrictions against
17 cross ownership. Yes, affiliates would have done
18 that. That was explored but that's no longer on
19 the table. At this point what they want to do --
20 and they are willing to move quickly. That's my
21 representation to you that they will move
22 quickly.

23 Again, at the end of it, at the end of
24 a brief period if they don't file, then we would
25 expect the Board to cancel the license, No. 1.

1 No. 2, when they are ready for issuance, if
2 Paul's is still operating, which we don't expect
3 to happen, then we understand that the Board is
4 likely to cancel the license.

5 MEMBER GRANDIS: Mr. Chairman, thank
6 you.

7 MR. KLINE: Thank you, Mr. Grandis.

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

10 So what is it that you're asking --
11 what is it, Mr. Kline, specifically are you
12 asking the Board to do today?

13 MR. KLINE: What we are asking is to
14 consider the license as remaining in safekeeping
15 at this point under the following conditions.
16 No. 1, that an application be filed within 15
17 days for either a class change for Rodman's if
18 licensing is willing to proceed in that fashion,
19 or a transfer into Rodman's of the A license with
20 the understanding that if the A license is issued
21 and approved, that the B license would be
22 surrendered, the grocery license would be
23 surrendered and, if necessary, the D license
24 would be surrendered.

25 That the applicant diligently pursue,

1 not just file something within 15 days that's not
2 complete, but diligently pursue finalization of
3 that application.

4 In the event that we get through the
5 placarding process and the license is approved,
6 either after community input in the settlement
7 agreement or no community input with the
8 presumption of appropriateness, or after a public
9 hearing on appropriateness, that the license then
10 come out of safekeeping and be used. I think
11 that's complete. I hope so.

12 CHAIRPERSON ANDERSON: All right. The
13 request -- the initial request from Rodman's was
14 for a -- was for a six-month extension through
15 March 31, 2022. That was the initial request.

16 MR. KLINE: Understood.

17 CHAIRPERSON ANDERSON: So in order for
18 them to move forward from March 31, 2022, then
19 they would have to make another request to us to
20 say that they would like to keep the license in
21 safekeeping for another six months. So by
22 operation of law that's where it is. The Board
23 had voted not to grant the license. What you're
24 asking the Board to do then is to grant the
25 extension through March 31, 2022.

1 Now, you're making representation to
2 say these things are going to happen so these
3 would have to -- that would not be an immediate
4 concern to the Board currently because we would
5 have granted the extension through March 31,
6 2022. If the license is not in operation -- at
7 least the way I'm looking at it, if the license
8 is not in operation by April 1, 2022, then you
9 would have to come back to make another request
10 of the Board for an extension.

11 MR. KLINE: I think that because of,
12 you know, given the timing, I think it's honestly
13 unlikely that would be the case because we have
14 to get through the placard period. What I'm
15 doing is not saying, gee -- you know, as we
16 usually do, gee, just extend safekeeping.

17 What I'm doing and saying is, hey,
18 here's where we are. We understand the Board's
19 concerns. We're sensitive to the Board's
20 concerns. Extend safekeeping but condition it
21 upon the things that we've told you that we're
22 going to do, not just us telling you that we're
23 going to do it. Condition it. You know, we want
24 you to hold our feet to the fire and we are
25 willing to have you hold our feet to the fire

1 because we know what we're going to do and we
2 want the Board to be satisfied because the Board
3 has demonstrated serious concerns about this
4 license continuing to languish in safekeeping.

5 We want the Board to be comfortable
6 that we're going to do what we say we're going to
7 do which is why we're perfectly happy
8 conditioning any extension of safekeeping of us
9 doing what we told you we're going to do.

10 CHAIRPERSON ANDERSON: Any questions
11 by any other Board Members?

12 What I'm going to do, I'm going to --

13 MR. KLINE: The other way to do it,
14 Mr. Chair, if we just want to do it simply. I
15 mean, if the Board respects our representations
16 in terms of what we're going to do is extend it
17 to March 30th and then you can see that we've
18 done what we told you we're going to do. If
19 we're in the middle of a placard process then, of
20 course, we're going to need another extension.

21 But rather than writing an order
22 saying that we're going to do all these things,
23 it's here on the record and we represented it,
24 simply come back before you in response to it
25 expiring March 30 and the Board can say, hey, you

1 told us you were going to do this and you didn't
2 do it so we're going to cancel it. I got all
3 that.

4 I mean, we're trying to be very
5 transparent as to what we want to do and
6 recognizing the Board's concerns we want to make
7 specific commitments to you that we're going to
8 do it and that's the commitments that we've made
9 today.

10 CHAIRPERSON ANDERSON: Any other
11 questions?

12 Thank you. That's one of the reasons
13 why Mr. Kline clarified the record by saying that
14 the request that we had today was to extend
15 safekeeping through March 31, 2022. That's what
16 is on the table. I know the other provisions --
17 I know what's being requested so what I'm going
18 to do, I'm going to -- all right.

19 Let me -- I'm going to go into
20 executive session. I want to try and see if I
21 can make a decision today rather than say I will
22 take this under advisement. Let's go in
23 executive session.

24 As Chairperson of the Alcoholic
25 Beverage Control Board for the District of

1 Columbia and in accordance with D.C. Office Code
2 Section 2-574(b) of the Open Meetings Act I move
3 that the ABC Board hold a closed meeting for the
4 purpose of seeking legal advice from our counsel
5 on the fact-finding hearing for Rodman's Discount
6 Spirits, License No. 108215 pursuant to DC
7 Official Code Section 2-574(b)(4) of the Open
8 Meetings Act and deliberate upon the fact-finding
9 hearing on Rodman's Discount Spirits, License No.
10 108215 for the reason cited in DC Official Code
11 Section 2-574(b)(13) of the Open Meetings Act.

12 Is there a second?

13 MEMBER SHORT: Mr. Short. I second.

14 CHAIRPERSON ANDERSON: Mr. Short has
15 seconded the motion. I'll now take a roll call
16 vote on the motion.

17 MEMBER SHORT: Mr. Short. I agree.

18 CHAIRPERSON ANDERSON: Mr. Cato.

19 MEMBER CATO: Bobby Cato. I agree.

20 CHAIRPERSON ANDERSON: Ms. Crockett.

21 MEMBER CROCKETT: Rafi Crockett. I
22 agree.

23 CHAIRPERSON ANDERSON: Ms. Hansen.

24 MEMBER HANSEN: Jeni Hansen. I agree.

25 CHAIRPERSON ANDERSON: Mr. Grandis.

1 MEMBER GRANDIS: Edward Grandis. I
2 agree.

3 CHAIRPERSON ANDERSON: And Mr.
4 Anderson. I agree. It appears that the matter
5 passes.

6 Give me about -- we'll be off the
7 record. It's 11:55. Give me until -- we'll be
8 off the record until 12:55. I'm sorry, 12:05.
9 12:05. It will be about 10 minutes and we'll
10 come back on the record. We'll pause. Don't go
11 away. The Board is going to go into executive
12 session and we will rejoin back at 12:05. Thank
13 you.

14 MR. KLINE: Thank you, Mr. Chair.

15 (Whereupon, the above-entitled matter went
16 off the record at 11:55 p.m. and resumed at 12:12
17 p.m.)

18 CHAIRPERSON ANDERSON: All right. We
19 are back on the record. We're still waiting for
20 Mr. Cato. As soon as Mr. Cato rejoins us -- all
21 right. We're back on the record. This is a fact-
22 finding hearing for Rodman's Discount Spirits.
23 The license number is 108215.

24 I just want to clarify the record
25 again, Mr. Kline, one more time. I just want you

1 to put on the record what it is that you are
2 requesting from the ABC Board.

3 MR. KLINE: We are requesting that the
4 license be approved to continue in safekeeping.
5 The licensee is committed and will agree that the
6 safekeeping continuance be conditioned upon
7 filing either a class change request or a
8 transfer, whichever is deemed appropriate by
9 licensing, with the Agency within 15 days. We'll
10 agree to thereafter diligently pursue
11 finalization of the class change or transfer.

12 At the conclusion of that process,
13 which will require placarding assuming that
14 Paul's is no longer operating, we would ask then
15 the license be issued. If the licensee does not
16 meet its commitment, then the licensee
17 understands that the Board will cancel the
18 license.

19 CHAIRPERSON ANDERSON: All right.
20 This is the motion I'm going to make. I'll make
21 a motion that the Board overturn its decision and
22 grant the extension through March 31, 2022 and
23 that the Board will make the change under the
24 condition that the licensee will either within 15
25 days or prior to -- I'll say prior to November --

1 I'm sorry, prior to March 31, 2022 that either a
2 transfer application for class change or a
3 transfer will be filed with the Board. Of
4 course, once that's filed, the Board will -- once
5 it is filed, the Board will do -- the Agency will
6 do its process of deciding if it needs to be
7 placarded.

8 The Agency will -- it's within the
9 Agency, the rest of it, to inform the community
10 of what's going on so that's not within -- that's
11 not necessarily for the licensee to do. The only
12 thing we can hold the licensee to do is to have
13 the application in place.

14 Once the licensee has either done the
15 transfer application or the class change
16 application, then it's up to the Agency to do its
17 part to advise the community of what's going on.
18 I just want to clarify that for the Board. So,
19 anyway, that is the motion. Is there a second?

20 MEMBER GRANDIS: Mr. Chairman.

21 CHAIRPERSON ANDERSON: Yes, Mr.
22 Grandis. Go ahead.

23 MEMBER GRANDIS: I believe at one
24 point you said that the application be turned
25 into the Board. I know you meant the Agency

1 because you then said the Agency.

2 CHAIRPERSON ANDERSON: The Agency.

3 MEMBER GRANDIS: But the instruction
4 has to be turned into the Agency ready for
5 placarding.

6 CHAIRPERSON ANDERSON: Well, the
7 Agency will make -- the Board and the Agency will
8 make the determination whether or not its going
9 to be placarded.

10 MEMBER GRANDIS: Yes, thank you. I
11 agree to that, yes.

12 CHAIRPERSON ANDERSON: That's an
13 internal decision. That's why I'm saying all
14 their obligation is to turn the application to
15 the Agency and then the Agency will -- the Agency
16 and the Board. The Board will then determine
17 whether or not it will or can be placarded, or
18 whether or not it will be approved.

19 That's why I can't make that there
20 because that's an internal procedure from -- by
21 the Board and the Agency. All the licensee has
22 to do is to turn the application in and then the
23 Agency and the Board will move forward what the
24 proper procedure moving forward is.

25 Therefore, it's for us to overturn our

1 decision to issue the -- so we can issue the
2 safekeeping until March 31, 2022. I'm not sure
3 -- again, this is provided that the safekeeping
4 fee be paid. I don't know if it was previously
5 paid and denied but provided the safekeeping fee
6 for the October -- the September through March
7 31, 2022 has been paid by the licensee. Is there
8 a second?

9 MEMBER SHORT: Mr. Short. I second.

10 MEMBER GRANDIS: Mr. Grandis. I
11 second.

12 CHAIRPERSON ANDERSON: So Mr. Grandis
13 and Mr. Short are in agreement and second the
14 motion. Let me take a roll call vote.

15 Mr. Short.

16 MEMBER SHORT: Mr. Short. I agree.

17 CHAIRPERSON ANDERSON: Mr. Cato.

18 MEMBER CATO: Bobby Cato. I agree.

19 CHAIRPERSON ANDERSON: Ms. Crockett.

20 MEMBER CROCKETT: Ms. Crockett. I
21 disagree.

22 CHAIRPERSON ANDERSON: Ms. Hansen.

23 MEMBER HANSEN: Jeni Hansen. I agree.

24 CHAIRPERSON ANDERSON: Mr. Grandis.

25 MEMBER GRANDIS: Edward Grandis. I

1 agree.

2 CHAIRPERSON ANDERSON: And Mr.
3 Anderson, I agree. So the matter passes five to
4 one to overturn our previous decision and
5 continue the license in safekeeping until March
6 22, 2022. The license, though, has made certain
7 representations to the Agency that it will give a
8 class change or a transfer within 15 days.

9 I will say that it's either within 15
10 days or prior to March 22, 2022. The licensee
11 should be aware that if this is not done based on
12 the representation here, that if they submit
13 another request for safekeeping for September 30
14 -- for the period April 1 through September 30,
15 2022, that the Board will not look on that
16 favorably. All right? All right.

17 MR. KLINE: Understood. Thank you,
18 Mr. Chairman and members of the Board.

19 CHAIRPERSON ANDERSON: All right.
20 Have a great day. Thank you.

21 (Whereupon, the above-entitled matter went
22 off the record at 12:20 p.m.)
23
24
25

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Rodman's Discount Spirits

Before: DC ABRA

Date: 02-09-22

Place: teleconference

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Neal R Gross

Court Reporter

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