

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

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IN THE MATTER OF:                   :  
  :  
Drane Flannery                       :  
Restaurant, LLC                      :  
t/a The Big Board                    :  
421 H Street NE                     :  
Retailer CT                          : Decision  
License No. 87398                   :  
Case #22-CMP-00006                 :  
  :  
(Violation of Mayor's               :  
Orders)                               :  
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Monday  
February 14, 2022

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

PRESENT:

- DONOVAN W. ANDERSON, Chairperson
- EDWARD S. GRANDIS, Member
- JENI HANSEN, Member
- JAMES SHORT, JR., Member

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

2 10:04 a.m.

3 CHAIRPERSON ANDERSON: Good morning.

4 We are the record. Good morning, everyone.

5 As Chairperson of the Alcoholic  
6 Beverage Control Board for the District of  
7 Columbia and in accordance with D.C. Official  
8 Code Section 25764 of the Opening Meetings Act  
9 I'm welcoming you to an emergency meeting of the  
10 Alcoholic Beverage Control Board.

11 This meeting is being conducted  
12 pursuant to guidance made available by the  
13 District of Columbia's Office of Open Government  
14 regarding electronic meetings held by public  
15 bodies during the public emergency.

16 Pursuant to this guidance notice of today's  
17 meeting was provided 48 hours in advance of the  
18 meeting on ABRA's website and on the District's  
19 central meeting calendar. The notice included  
20 the time, date, agenda, and call-in or log-in  
21 information for public participation.

22 This electronic meeting is being  
23 hosted by a Webex account provided by the  
24 District of Columbia government. Please address  
25 any questions or complaints to the OOG at

1 opengovoffice@dc.gov.

2 My name is Donovan Anderson. I'm  
3 Chairman of the Board. I would like to introduce  
4 the other Board members, the members of the ABC  
5 Board who are also participating electronically  
6 pursuant to Mayor's Order 2022-007. Please  
7 respond when I announce your name.

8 Mr. James Short?

9 MEMBER SHORT: Mr. James Short.

10 Present.

11 CHAIRPERSON ANDERSON: Ms. Jeni

12 Hansen?

13 MEMBER HANSEN: Jeni Hansen. Present.

14 CHAIRPERSON ANDERSON: Mr. Edward

15 Grandis?

16 MEMBER GRANDIS: Edward Grandis.

17 Present.

18 CHAIRPERSON ANDERSON: The Board four  
19 members in conduct -- I'm sorry, the Board has  
20 four members in attendance today for the conduct  
21 of business and that constitutes a quorum.

22 Just to advise the public, three  
23 members of the Board -- any time there's three  
24 members of the Board, that constitutes a quorum.

25 Our first -- our only order of

1 business today is that the Board has convened  
2 today to announce its decision regarding the  
3 summary suspension action in Case No. 22-CMP-  
4 00006, which resulted in the summary suspension  
5 of ABRA License No. 087398 held by Drane Flannery  
6 Restaurant, trade name The Big Board, at 421 H  
7 Street, N.E., Washington, D.C.

8 On January 28th, 2022 the Board  
9 executed a notice issued by the Office of the  
10 Attorney General suspending the retailer's class  
11 CT license held by Drane Flannery Restaurant,  
12 LLC, trading under Big Board, under the authority  
13 granted by the D.C. Official Code Section 25826,  
14 23 DCMR Section 810, Mayor's Order 2021-147,  
15 Mayor's Order 2021-148, and Mayor's Order 2022-  
16 007.

17 Specifically, the notice alleged that  
18 between January 14th, 2022 and January 22nd, 2022  
19 the ownership intentionally failed to comply with  
20 emergency masks and proof of vaccination checking  
21 requirements implemented to curb the spread of  
22 COVID-19 in the District of Columbia in violation  
23 of 23 DCMR Section 810.3(n), (o), (p), (q), (r)  
24 and (s). The notice further alleged that these  
25 violations constituted an imminent danger to the

1 health and safety of the public.

2 The Respondent subsequently requested  
3 a hearing, which after the granting of the  
4 continuance, was held on February 10th, 2022. At  
5 the hearing the Government presented evidence  
6 that the spread of COVID remains a threat to  
7 residents and visitors of the District of  
8 Columbia. The spread of the disease threatens  
9 the ability of our hospitals and other health  
10 care providers to provide timely adequate and  
11 lifesaving medical treatment, that bars and  
12 restaurants remain a significant source of  
13 outbreaks in the District, and that mask wearing  
14 and proof of vaccine checking requirements are  
15 necessary measures to protect the health, safety,  
16 and welfare of the public.

17 The Government demonstrated that The  
18 Big Board failed to comply with required mask  
19 wearing, sign posting, and proof of vaccine  
20 checking requirements in January of this year.

21 The Board further provided an  
22 opportunity for The Big Board to mount a defense.  
23 Nevertheless, during the hearing it did not  
24 significantly challenge the facts, did not  
25 demonstrate that COVID-19 is not a danger to the

1 public, did not demonstrate that our medical  
2 system was not in danger of collapse, and did not  
3 demonstrate that the District's mitigating  
4 measures were necessary.

5 The Board further notes that whatever  
6 objections The Big Board has regarding the  
7 District's mitigating measures, such objections  
8 were not significantly elaborated upon.

9 It should be further noted that The  
10 Big Board did not share any specific legal  
11 objections to the Board's actions which had they  
12 had any merit whatsoever could have impacted the  
13 Board's final decision. Therefore, as far as the  
14 Board is concerned such objections are waived in  
15 this forum.

16 In light of this record where the  
17 Government's case has been proven without  
18 significant objection, the Board finds that the  
19 continued operation of The Big Board presents an  
20 imminent danger to the public, specifically the  
21 past refusal of the owner of The Big Board, Eric  
22 Flannery, to comply with emergency mask wearing  
23 and proof of vaccine checking requirements on an  
24 ongoing basis constitutes a threat to the health,  
25 safety, and welfare of the public, and the

1 ability of the District to offer adequate timely  
2 and immediate medical care.

3 Even worse, the owner's known and  
4 repeated refusal to require his employees to wear  
5 masks jeopardizes his own staff's health and  
6 well-being. Simply put, Mr. Flannery's actions  
7 constitute a disturbing use of the  
8 employer/employee -- employee/employer  
9 relationship that demonstrates a mentality akin  
10 to a mine owner that puts his miners in danger by  
11 ignoring safe mining regulations.

12 Indeed, it is simply mind-boggling  
13 that Mr. Flannery could show so much little  
14 regard for the people who work for him and put  
15 food in his mouth on a daily basis.

16 In this case the Board further  
17 considered the Respondent's proposal to only  
18 permit carry-out and mandated mask wearing --  
19 with mandated mask wearing. However, the Board  
20 rejects this proposal because Mr. Flannery cannot  
21 be trusted to diligently comply with any COVID-19  
22 mitigation measures where ABRA investigators  
23 visited the establishment on multiple occasions  
24 and gave multiple verbal and written warnings to  
25 Mr. Flannery that were intentionally ignored.

1                   Simply put, if Mr. Flannery is not  
2 going to respect the warnings of the Board's  
3 agents and emergency orders issued by the mayor,  
4 there is no reason for the Board to believe that  
5 he would follow any requirements imposed by the  
6 Board with the diligence that we would require.

7                   Consequently, because the Board's --  
8 The Big Board's ownership cannot be trusted to  
9 diligently comply with the critical COVID-19  
10 mitigation rules, the license shall be suspended  
11 until all mask wearing and proof of vaccine  
12 checking requirements acting on premises  
13 retailers regulated by the Alcohol Beverage  
14 Regulation Administration are no longer in effect  
15 and have been repealed, amended, or superseded.

16                   An order describing the Board's  
17 opinion and reasoning shall be available today to  
18 the parties. And this decision was voted 6-0-0  
19 by the Board.

20                   That's the Board's decision. Thank  
21 you very much. Have a great day.

22                   (Whereupon, the above-entitled matter  
23 went off the record at 10:12 a.m.)  
24  
25



<p style="text-align: center;"><b>A</b></p> <p>a.m 2:2 8:23  <b>ABC</b> 3:4  <b>ability</b> 5:9 7:1  <b>above-entitled</b> 8:22  <b>ABRA</b> 4:5 7:22  <b>ABRA's</b> 2:18  <b>account</b> 2:23  <b>Act</b> 2:8  <b>acting</b> 8:12  <b>action</b> 4:3  <b>actions</b> 6:11 7:6  <b>address</b> 2:24  <b>adequate</b> 5:10 7:1  <b>Administration</b> 8:14  <b>advance</b> 2:17  <b>advise</b> 3:22  <b>agenda</b> 2:20  <b>agents</b> 8:3  <b>akin</b> 7:9  <b>Alcohol</b> 8:13  <b>Alcoholic</b> 1:2,14 2:5,10  <b>alleged</b> 4:17,24  <b>amended</b> 8:15  <b>Anderson</b> 1:15,17 2:3  3:2,11,14,18  <b>announce</b> 3:7 4:2  <b>attendance</b> 3:20  <b>Attorney</b> 4:10  <b>authority</b> 4:12  <b>available</b> 2:12 8:17</p>	<p><b>Chairperson</b> 1:14,17  2:3,5 3:11,14,18  <b>challenge</b> 5:24  <b>checking</b> 4:20 5:14,20  6:23 8:12  <b>class</b> 4:10  <b>Code</b> 2:8 4:13  <b>collapse</b> 6:2  <b>Columbia</b> 1:1 2:7,24  4:22 5:8  <b>Columbia's</b> 2:13  <b>complaints</b> 2:25  <b>comply</b> 4:19 5:18 6:22  7:21 8:9  <b>concerned</b> 6:14  <b>conduct</b> 3:19,20  <b>conducted</b> 2:11  <b>Consequently</b> 8:7  <b>considered</b> 7:17  <b>constitute</b> 7:7  <b>constituted</b> 4:25  <b>constitutes</b> 3:21,24  6:24  <b>continuance</b> 5:4  <b>continued</b> 6:19  <b>Control</b> 1:2,14 2:6,10  <b>convened</b> 4:1  <b>COVID</b> 5:6  <b>COVID-19</b> 4:22 5:25  7:21 8:9  <b>critical</b> 8:9  <b>CT</b> 1:8 4:11  <b>curb</b> 4:21</p>	<p style="text-align: center;"><b>E</b></p> <p><b>Edward</b> 1:18 3:14,16  <b>effect</b> 8:14  <b>elaborated</b> 6:8  <b>electronic</b> 2:14,22  <b>electronically</b> 3:5  <b>emergency</b> 2:9,15 4:20  6:22 8:3  <b>employee/employer</b>  7:8  <b>employees</b> 7:4  <b>employer/employee</b>  7:8  <b>Eric</b> 6:21  <b>establishment</b> 7:23  <b>evidence</b> 5:5  <b>executed</b> 4:9</p> <p style="text-align: center;"><b>F</b></p> <p><b>facts</b> 5:24  <b>failed</b> 4:19 5:18  <b>far</b> 6:13  <b>February</b> 1:12 5:4  <b>final</b> 6:13  <b>finds</b> 6:18  <b>first</b> 3:25  <b>Flannery</b> 1:6 4:5,11  6:22 7:13,20,25 8:1  <b>Flannery's</b> 7:6  <b>follow</b> 8:5  <b>food</b> 7:15  <b>forum</b> 6:15  <b>four</b> 3:18,20  <b>further</b> 4:24 5:21 6:5,9  7:16</p>	<p style="text-align: center;"><b>I</b></p> <p><b>ignored</b> 7:25  <b>ignoring</b> 7:11  <b>immediate</b> 7:2  <b>imminent</b> 4:25 6:20  <b>impacted</b> 6:12  <b>implemented</b> 4:21  <b>imposed</b> 8:5  <b>included</b> 2:19  <b>information</b> 2:21  <b>intentionally</b> 4:19 7:25  <b>introduce</b> 3:3  <b>investigators</b> 7:22  <b>issued</b> 4:9 8:3</p>
<p style="text-align: center;"><b>B</b></p> <p><b>bars</b> 5:11  <b>basis</b> 6:24 7:15  <b>believe</b> 8:4  <b>Beverage</b> 1:2,14 2:6,10  8:13  <b>Big</b> 1:7 4:6,12 5:18,22  6:6,10,19,21 8:8  <b>Board</b> 1:2,7,14 2:6,10  3:3,4,5,18,19,23,24  4:1,6,8,12 5:18,21,22  6:5,6,10,14,18,19,21  7:16,19 8:4,6,19  <b>Board's</b> 6:11,13 8:2,7,8  8:16,20  <b>bodies</b> 2:15  <b>business</b> 3:21 4:1</p>	<p style="text-align: center;"><b>D</b></p> <p><b>D.C</b> 2:7 4:7,13  <b>daily</b> 7:15  <b>danger</b> 4:25 5:25 6:2,20  7:10  <b>date</b> 2:20  <b>day</b> 8:21  <b>DCMR</b> 4:14,23  <b>decision</b> 1:8 4:2 6:13  8:18,20  <b>defense</b> 5:22  <b>demonstrate</b> 5:25 6:1,3  <b>demonstrated</b> 5:17  <b>demonstrates</b> 7:9  <b>describing</b> 8:16  <b>diligence</b> 8:6  <b>diligently</b> 7:21 8:9  <b>disease</b> 5:8  <b>District</b> 1:1 2:6,13,24  4:22 5:7,13 7:1  <b>District's</b> 2:18 6:3,7  <b>disturbing</b> 7:7  <b>Donovan</b> 1:15,17 3:2  <b>Drane</b> 1:6 4:5,11</p>	<p style="text-align: center;"><b>G</b></p> <p><b>General</b> 4:10  <b>government</b> 2:13,24  5:5,17  <b>Government's</b> 6:17  <b>Grandis</b> 1:18 3:15,16  3:16  <b>granted</b> 4:13  <b>granting</b> 5:3  <b>guidance</b> 2:12,16</p> <p style="text-align: center;"><b>H</b></p> <p><b>H</b> 1:7 4:6  <b>Hansen</b> 1:18 3:12,13,13  <b>health</b> 5:1,9,15 6:24 7:5  <b>hearing</b> 5:3,5,23  <b>held</b> 2:14 4:5,11 5:4  <b>hospitals</b> 5:9  <b>hosted</b> 2:23  <b>hours</b> 2:17</p>	<p style="text-align: center;"><b>J</b></p> <p><b>James</b> 1:19 3:8,9  <b>January</b> 4:8,18,18 5:20  <b>Jeni</b> 1:18 3:11,13  <b>jeopardizes</b> 7:5  <b>JR</b> 1:19</p> <p style="text-align: center;"><b>K</b></p> <p><b>known</b> 7:3</p> <p style="text-align: center;"><b>L</b></p> <p><b>legal</b> 6:10  <b>license</b> 1:8 4:5,11 8:10  <b>lifesaving</b> 5:11  <b>light</b> 6:16  <b>little</b> 7:13  <b>LLC</b> 1:6 4:12  <b>log-in</b> 2:20  <b>longer</b> 8:14</p> <p style="text-align: center;"><b>M</b></p> <p><b>mandated</b> 7:18,19  <b>mask</b> 5:13,18 6:22 7:18  7:19 8:11  <b>masks</b> 4:20 7:5  <b>matter</b> 1:5 8:22  <b>mayor</b> 8:3  <b>Mayor's</b> 1:10 3:6 4:14  4:15,15  <b>measures</b> 5:15 6:4,7  7:22  <b>medical</b> 5:11 6:1 7:2  <b>meeting</b> 1:3 2:9,11,17  2:18,19,22  <b>meetings</b> 2:8,14  <b>Member</b> 1:18,18,19 3:9  3:13,16  <b>members</b> 3:4,4,19,20  3:23,24  <b>mentality</b> 7:9  <b>merit</b> 6:12  <b>met</b> 1:14</p>

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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: The Big Board

Before: DC ABRA

Date: 02-14-22

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



-----  
Court Reporter

**NEAL R. GROSS**

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