

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

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IN THE MATTER OF: :

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UltraBar Chrome :
911 F Street NW :
Retailer CN - ANC 2C :
License No. 74767 :
Case #19-PRO-00163 :
 :
(New License Application):
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Wednesday
March 2, 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
- MICHAEL SCHAKOW, Protestant
- MICHAEL SHANKLE, ANC 2C
- ASHLEY STEINBERG, Protestant
- SIDON YOHANNES, Applicant Counsel

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

2 10:39 a.m.

3 CHAIRPERSON ANDERSON: Good morning,
4 we're on the record. As Chairperson of the
5 Alcoholic Beverage Control Board for the District
6 of Columbia in accordance with D.C. Official Code
7 Section 2576 of the Open Meetings Act, I am
8 welcoming you to the regular scheduled meeting of
9 the Alcoholic Beverage Control Board.

10 This meeting is being conducted
11 pursuant to guidance made available by the
12 District of Columbia Office of Open Government
13 regarding electronic meetings held by public
14 bodies. Although the mayor's declared public
15 emergency expired February 15, 2022, public
16 bodies may continue to meet remotely pursuant to
17 the electronic meeting requirements of the OMA.
18 Electronic meetings by the ABC Board are
19 authorized under Title 25-204.1.

20 Pursuant to the OMA requirements,
21 notice of today's meeting was provided 48 hours
22 in advance of the meeting on ABRA's website and
23 on the District's Central Meeting Calendar. The
24 notice includes the time, date, agenda and call
25 in or log in information for public

1 participation. This electronic meeting is being
2 hosted by a Webex account provided by the
3 District of Columbia Government. Please address
4 any questions or complaints to the OOG at
5 opengovoffice@dc.gov.

6 My name is Donovan Anderson. I'm
7 Chairman of the Board. I would like to introduce
8 the other members of the ABC Board who are also
9 participating electronically pursuant to Mayor's
10 Order 2022-007. Please respond when I announce
11 your name. Mr. James Short.

12 MEMBER SHORT: Mr. James Short,
13 present.

14 CHAIRPERSON ANDERSON: Mr. Bobby Cato.

15 MEMBER CATO: Bobby Cato, present.

16 CHAIRPERSON ANDERSON: Ms. Rafi
17 Crockett.

18 MEMBER CROCKETT: Rafi Crockett,
19 present.

20 CHAIRPERSON ANDERSON: Ms. Jeni
21 Hansen.

22 MEMBER HANSEN: Jeni Hansen, present.

23 CHAIRPERSON ANDERSON: Mr. Edward
24 Grandis.

25 MEMBER GRANDIS: Edward Grandis,

1 present.

2 CHAIRPERSON ANDERSON: The Board has
3 six members in attendance for the conduct of
4 business today and that constitutes a quorum.

5 Before we get under way with the
6 hearing calendar, I need to make a few
7 instructions very clear so the conduct of this
8 hearing is understood by everyone. (Pause.)

9 There are 14 cases on today's
10 calendar, the entire calendar for the day. Once
11 your case is called, I will take a moment for our
12 IT specialist to elevate the rights for each part
13 to enable the camera and microphone. Then, and
14 only then, will you have the ability to enable
15 your equipment. If your case is not being heard,
16 you will remain mute and your camera will be
17 disabled.

18 At the conclusion of each case, the
19 parties will have the option to leave. If the
20 party chooses to stay, all camera and microphones
21 for the concluded case will be disabled. Should
22 you have any questions or require technical
23 assistance during the hearing, please submit them
24 using the question and answer feature.

25 Our first case for the day is a

1 protest hearing status, case number 19-PRO-00163,
2 UltraBar Chrome, license number 74767. Ms.
3 Fashbaugh, can you please elevate the rights of
4 the parties in this case, please?

5 MS. FASHBAUGH: Good morning, please
6 stand by. (Pause.) Sidon Yohannes, your rights
7 have been elevated. (Pause.) I do not see
8 Commissioner Kevin Wilsey. (Pause.) Ashley
9 Steinberg, your rights have been elevated.
10 (Pause.) And Michael Schakow, your rights have
11 been elevated. That is all, Mr. Chair.

12 CHAIRPERSON ANDERSON: Thank you, Ms.
13 Fashbaugh.

14 MS. STEINBERG: I don't know if this
15 out of order, but there is another commission
16 because Kevin Wilsey no longer serves and he is
17 in the waiting room.

18 CHAIRPERSON ANDERSON: (Simultaneous
19 speaking.) What is that person's name? They can
20 identify themselves so we will elevate that
21 person's rights. Who is that person?

22 MS. STEINBERG: Commissioner Shankle.

23 CHAIRPERSON ANDERSON: Ms. Fashbaugh,
24 do you see Commissioner Shankle on the lines?

25 MS. FASHBAUGH: He has been elevated,

1 thank you.

2 CHAIRPERSON ANDERSON: All right thank
3 you.

4 MR. SCHAKOW: Yes.

5 CHAIRPERSON ANDERSON: All right, do
6 you have a camera, sir? If everyone has a camera
7 can you -- all right, good. All right, good
8 morning everyone. This is a protest hearing
9 status. I would like the parties to introduce
10 themselves for the record. So let's start with
11 the licensee.

12 MS. YOHANNES: Sidon Yohannes on
13 behalf of the licensee and that's S-I-D-O-N Y-O-
14 H-A-N-N-E-S.

15 CHAIRPERSON ANDERSON: And let's have
16 -- who's representing the Agency?

17 MR. SHANKLE: Hi, I'm Commissioner
18 Michael Shankle. It is M-I-C-H-A-E-L last name
19 is S-H-A-N-K-L-E. I am the Chair of ANC 2C.
20 Kevin Wilsey was a former chair, no longer
21 serving on the ANC now that this protest is
22 continuing.

23 CHAIRPERSON ANDERSON: Okay, thank
24 you. Who are the other protesters that are on
25 the line?

1 MS. STEINBERG: Hi, I'm Ashley
2 Steinberg, A-S-H-L-E-Y S-T-E-I-N-B-E-R-G and I am
3 one of the two designated representatives for the
4 group, but my neighbor, who is also on the
5 protest, is here as well so I'll let him
6 introduce himself.

7 CHAIRPERSON ANDERSON: And who is
8 that?

9 MR. SCHAKOW: Hi, I'm Michael Schakow,
10 M-I-C-H-A-E-L S-C-H-A-K-O-W.

11 CHAIRPERSON ANDERSON: All right,
12 thank you. All right, this is license is being
13 protested by the ANC in a group of five or more?
14 Am I correct?

15 MS. YOHANNES: Yes. That's correct.

16 CHAIRPERSON ANDERSON: All right,
17 thank you. Let's start, thank you. All right,
18 as far as the licensee, are there any preliminary
19 matters in this case that the board needs to
20 address?

21 MS. YOHANNES: No preliminary matters
22 for us.

23 CHAIRPERSON ANDERSON: The ANC are
24 there preliminary matters that the ANC wishes to
25 bring to the attention of the board?

1 MR. SHANKLE: No, not at this time,
2 except that we have been, well I guess we have
3 been in mediation regarding this and a settlement
4 agreement has been provided to the Applicant for
5 review and response.

6 CHAIRPERSON ANDERSON: What about from
7 the group of five or more, any preliminary
8 matters?

9 MR. SHANKLE: Yes, I'm sorry it is
10 (Simultaneous speaking.) It's a collaborative
11 process.

12 CHAIRPERSON ANDERSON: Right, thank
13 you. Any preliminary matters for the group of
14 five or more is concerned?

15 MS. STEINBERG: You'll have to forgive
16 us, we're not used to this process, so I don't
17 technically know what a preliminary matter is.
18 All I would offer is that I just want to clarify
19 Commissioner Shankle's comment about the
20 settlement agreement. That was sent months and
21 months and months ago.

22 CHAIRPERSON ANDERSON: No, well
23 preliminary matters are not substantive matters.
24 If you're having some concerns that you believe
25 since all the parties are here today, that the

1 board could try to address, but not substantive,
2 just like if there's a procedural type of matter
3 or if you --

4 MS. STEINBERG: Apologies then, yes.
5 I'll be quiet.

6 CHAIRPERSON ANDERSON: No, no, please
7 this is an opportunity to ask questions or if you
8 need some clarification on the process and
9 procedures. So it's appropriate to ask the
10 question that you did raise.

11 MS. STEINBERG: Thank you.

12 CHAIRPERSON ANDERSON: I just also
13 want to raise this to you as a preliminary
14 matter, this matter has been protested by the ANC
15 and a group of a five or more and by operation of
16 law, if the ANC signs a settlement agreement and
17 if the group of five or more is not a part of the
18 settlement agreement, then the group of five or
19 more's protest will fall and so the group of five
20 or more will no longer have jurisdiction to move
21 forward. I'd also like to inform the group of
22 five or more that the board cannot force the
23 parties to make you a part of the settlement
24 agreement. So I just want to let you know that
25 that, as a group of five or more, yes you do have

1 standing to move forward, but if there's a
2 settlement with the ANC, if you're not a part of
3 it, then you're standing to move forward with
4 this hearing falls.

5 As a preliminary matter, I'm just
6 sharing that with you to say that's how it is
7 because we have had many cases where if there is
8 a settlement agreement and the group is not a
9 part of it, then the group is coming to the ABC
10 Board to say well, we need to move forward with
11 the hearing or you need to force them to make us
12 a part of the settlement agreement and I just
13 want to say by operation of law, the ABC Board
14 cannot do that, okay?

15 MS. STEINBERG: Thanks, understood.

16 CHAIRPERSON ANDERSON: All right,
17 thank you. All right, this matter then is
18 scheduled for a protest hearing if the matter is
19 not settled. This matter is scheduled for a
20 protest hearing on April 20, 2022 at 1:30 p.m.

21 And just as an aside, I see because
22 there's a case from '19 that this is from the
23 renewal in 2019. We are also in a renewal for
24 2022 and I would hope that as the license comes
25 up for renewal in 2022, since we are still

1 negotiating the renewal from 2019, it would help
2 the process if the parties also addressed, if
3 possible, you don't have to do that, address the
4 renewal in 2022 so, therefore, we do not have
5 another protest for the renewal for 2022 since
6 you're still talking about the renewal for 2019.
7 Just as a -- just a nudge to the parties that you
8 can still do that if you want, but I would ask
9 that if you're speaking that it would help the
10 process or would help the board if you also
11 addressed the renewal that's coming up for 2022
12 also.

13 MS. STEINBERG: Thank you.

14 MR. SHANKLE: Mr. Chairman?

15 CHAIRPERSON ANDERSON: Yes, Mr.
16 Shankle.

17 MR. SHANKLE: Does that, the 2019
18 protest, will still stand even though the 2022
19 license is being renewed, is that correct?

20 CHAIRPERSON ANDERSON: Yes. So we're
21 still moving forward with a hearing for the
22 renewal for 2019, but irrespective of what
23 happens, we're still moving forward with that.

24 MR. SHANKLE: Got it.

25 CHAIRPERSON ANDERSON: I'm just saying

1 the license is coming up for renewal again here
2 in 2022, so rather than maybe you file another
3 protest for 2022, maybe you can address those
4 issues in this 2019 renewal. I'm just saying,
5 I'm not saying you (Simultaneous speaking.) have
6 to do that. (Simultaneous speaking.)

7 MS. YOHANNES: (Simultaneous
8 speaking.) I guess I will just say the licensee
9 will be more than happy to continue discussions
10 with parties and that.

11 MR. SHANKLE: Yes, would we be
12 required to file a protest in 2022, like to
13 continue if this was not resolved?

14 CHAIRPERSON ANDERSON: No, that's
15 separate and apart.

16 MR. SHANKLE: Okay separate and apart,
17 got it.

18 CHAIRPERSON ANDERSON: It's separate
19 and apart so, therefore, we're moving forward
20 with the renewal for 2019; however, you're going
21 to get notice that their license is up again and
22 so you still have an opportunity --

23 MR. SHANKLE: Oh, gotcha.

24 CHAIRPERSON ANDERSON: To protest the
25 2022 renewal.

1 MR. SHANKLE: Got it.

2 CHAIRPERSON ANDERSON: But all I'm
3 saying is that because of -- to assist the
4 agency, that's all I'm saying --

5 MR. SHANKLE: Right, yes, I got it.
6 Got it.

7 CHAIRPERSON ANDERSON: You can, I
8 would say, address those issues if possible.

9 MR. SHANKLE: Oh yes, we want to
10 address. We want to come to resolution.

11 CHAIRPERSON ANDERSON: Okay.

12 MR. SHANKLE: Definitely.

13 CHAIRPERSON ANDERSON: So that's all
14 I'm saying. I'm not requiring you to do that,
15 but I'm just saying --

16 MR. SHANKLE: Right.

17 CHAIRPERSON ANDERSON: That's
18 something to look at in your negotiation that the
19 parties can also keep in as part of their
20 discussion.

21 MR. SHANKLE: Got it.

22 CHAIRPERSON ANDERSON: Okay. All
23 right, as I stated before, this matter then, the
24 2019 renewal, this matter is scheduled for a
25 protest hearing on April 20, 2022, at 1:30 p.m.

1 All right? All right.

2 MS. STEINBERG: Thank you.

3 CHAIRPERSON ANDERSON: Yes. Now that
4 we have scheduled this matter for a protest
5 hearing, there are a few things that I would like
6 to instruct you about because the board's
7 practices since COVID-19 which we're hopefully
8 moving through, have changed, but I doubt that
9 the board's procedures will change because I
10 believe the board is going to continue with
11 virtual hearings. It appears, at least it
12 appears to me, that the virtual hearing process
13 it does work for the parties rather than you have
14 to come to the board room and spend all day, you
15 don't have any idea when we're going to have a
16 hearing. At least you could be in your home,
17 your office and you could log on when your case
18 is called. So I just want to let folks know that
19 it is more likely than not that the board will
20 continue with virtual hearings indefinitely, but
21 we will discuss that with the public.

22 All right, so as you know the board's
23 hearings are conducted virtually, so it is more
24 important than ever that protest hearings are
25 focused and address only those issues that are

1 being protested.

2 Following this hearing, you will
3 receive an e-mail from ABRA legal assistant,
4 Imani Moreland that will include a copy of the
5 protest information form (PIF) and a copy of an
6 exhibit form as well as specific instructions for
7 the hearing. You are required to complete and
8 submit the PIF and exhibit forms at least seven
9 days before the hearing. If we do not receive a
10 copy of your forms seven days before the hearing,
11 your application or your protest may be subject
12 to dismissal. These documents need to be
13 submitted to ABRA.legal and to the opposing
14 parties. Please know that these documents
15 greatly assist the board in narrowing the protest
16 issues, facilitating the process and keeping the
17 parties on point during the hearing.

18 Each side is limited to no more than
19 five witnesses and you will only have 60 minutes
20 to present your case. This includes all direct
21 and cross examinations. The board does not
22 intend to hearing testimony on matters that are
23 not relevant to those issues that are being
24 protested. Any questions by any side?

25 MS. STEINBERG: I have a question.

1 CHAIRPERSON ANDERSON: Yes, ma'am.

2 MS. STEINBERG: In this virtual
3 format, will we have the opportunity to present
4 video evidence? We have years worth of videos
5 from every Friday and Saturday night.

6 CHAIRPERSON ANDERSON: Yes, you can.

7 MS. STEINBERG: Great.

8 CHAIRPERSON ANDERSON: You're able to
9 provide video, but again you need to share that
10 with the other side and we will give you an
11 opportunity to do that.

12 MS. STEINBERG: Great, thank you.
13 (Simultaneous speaking.) I just wanted to make
14 sure the virtual format allowed that.

15 CHAIRPERSON ANDERSON: The virtual, we
16 have been doing this for two years and we have
17 perfected the art. (Laughter.)

18 MS. STEINBERG: Perfect.

19 CHAIRPERSON ANDERSON: So as long as
20 you have perfected the art of how to utilize your
21 computer, most of the problems that we have are
22 that we normally have folks who want to share
23 something in the public record, but they are
24 unable to enact their equipment to share it. So
25 we --

1 MS. STEINBERG: Well you're tapping
2 into my deepest fear that I will mess this up, so
3 we will practice in advance.

4 CHAIRPERSON ANDERSON: (Laughter.)
5 Right, but I'm hoping that the parties will --
6 the board's wish is that the parties will settle
7 this matter and one of the reasons why the board
8 prefers settlement, this is your neighborhood.
9 The board will make a decision if we have a
10 hearing, but if the parties are able to settle
11 it, this is your decision. This is your
12 neighborhood. You can decide what it is that you
13 want in your neighborhood.

14 If it goes to a hearing, one side
15 might be happy, one side might be not happy based
16 on the decision that's made by the board because
17 I'm not sure if any of the board members live
18 within this community, so we do support the
19 parties settling these matters because at the end
20 of the day, you have to coexist in this space.
21 If you can come to a mutual agreement in how
22 you're going to coexist, the board will support
23 that.

24 So we do support the parties, but if
25 the parties are unable to settle the matter, we

1 will have a hearing and then we will listen to
2 testimony and then we will make a decision. All
3 right? So thank you very much.

4 We thank you very much for your
5 cooperation. If you have any questions at any
6 time leading up to the hearing, please do not
7 hesitate to contact Ms. Moreland and 202-442-6942
8 or contact her via e-mail. Thank you very much.
9 As I stated before, the board supports settlement
10 if the parties can settle this matter, we support
11 that, we endorse that, but if not, we'll see you
12 on April 20, 2022 at 1:30 p.m. Have a great day.
13 Thank you very much.

14 MR. SHANKLE: Thank you, Mr. Chairman.

15 MS. STEINBERG: Thank you.

16 MR. SHANKLE: Thank you, Board.

17 CHAIRPERSON ANDERSON: You're welcome,
18 Mr. Shankle.

19 MS. YOHANNES: Thank you.

20 CHAIRPERSON ANDERSON: Thank you, Ms.
21 Yohannes. (Pause.)

22 (Whereupon, the above-entitled matter
23 went off the record at 10:54 a.m.)
24
25

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A-S-H-L-E-Y 7:2 a.m 2:2 18:23 ABC 2:18 3:8 10:9,13 ability 4:14 able 16:8 17:10 above-entitled 18:22 ABRA 1:20 15:3 ABRA's 2:22 ABRA.legal 15:13 account 3:2 Act 2:7 address 3:3 7:20 9:1 11:3 12:3 13:8,10 14:25 addressed 11:2,11 advance 2:22 17:3 agency 6:16 13:4 agenda 2:24 ago 8:21 agreement 8:4,20 9:16 9:18,24 10:8,12 17:21 Alcoholic 1:2,12 2:5,9 ALIYA 1:17 allowed 16:14 ANC 1:7,21 6:19,21 7:13,23,24 9:14,16 10:2 Anderson 1:13,16 2:3 3:6,14,16,20,23 4:2 5:12,18,23 6:2,5,15 6:23 7:7,11,16,23 8:6 8:12,22 9:6,12 10:16 11:15,20,25 12:14,18 12:24 13:2,7,11,13,17 13:22 14:3 16:1,6,8 16:15,19 17:4 18:17 18:20 announce 3:10 answer 4:24 apart 12:15,16,19 Apologies 9:4 appears 14:11,12 Applicant 1:22 8:4 application 1:9 15:11 appropriate 9:9 April 10:20 13:25 18:12 art 16:17,20 Ashley 1:22 5:8 7:1 aside 10:21 assist 13:3 15:15 assistance 4:23 assistant 15:3 attendance 4:3 attention 7:25 authorized 2:19 available 2:11	based 17:15 behalf 6:13 believe 8:24 14:10 Beverage 1:2,12 2:5,9 board 1:2,12 2:5,9,18 3:7,8 4:2 7:19,25 9:1 9:22 10:10,13 11:10 14:10,14,19 15:15,21 17:7,9,16,17,22 18:9 18:16 board's 14:6,9,22 17:6 Bobby 1:16 3:14,15 bodies 2:14,16 bring 7:25 business 4:4	coming 10:9 11:11 12:1 comment 8:19 commission 5:15 Commissioner 5:8,22 5:24 6:17 8:19 community 17:18 complaints 3:4 complete 15:7 computer 16:21 concerned 8:14 concerns 8:24 concluded 4:21 conclusion 4:18 conduct 4:3,7 conducted 2:10 14:23 constitutes 4:4 contact 18:7,8 continue 2:16 12:9,13 14:10,20 continuing 6:22 Control 1:2,12 2:5,9 cooperation 18:5 copy 15:4,5,10 correct 7:14,15 11:19 Counsel 1:22 COVID-19 14:7 Crockett 1:17 3:17,18 3:18 cross 15:21	e-mail 15:3 18:8 Edward 1:17 3:23,25 electronic 2:13,17,18 3:1 electronically 3:9 elevate 4:12 5:3,20 elevated 5:7,9,11,25 emergency 2:15 enable 4:13,14 enact 16:24 endorse 18:11 entire 4:10 equipment 4:15 16:24 evidence 16:4 examinations 15:21 exhibit 15:6,8 expired 2:15		
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Before: DCABRA

Date: 03-02-22

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