

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

2 12:02 p.m.

3 CHAIRPERSON ANDERSON: The next case
4 on our calendar is a show-cause hearing, Case
5 No. 21-CC-00031, New Dodge Market, license number
6 99565. Ms. Fashbaugh, can you please elevate the
7 rights of the licensee and the witnesses in this
8 case, please.

9 MS. FASHBAUGH: Please stand by. I do
10 not see the licensee in the room. James Jordan,
11 your rights have been elevated.

12 I don't see Adam Murray in the room.
13 Kevin Puente, your rights have been elevated.
14 And George Garcia, your rights have been
15 elevated. That is all, Mr. Chair.

16 CHAIRPERSON ANDERSON: Thank you.
17 Good morning, Mr. Jordan. Mr. Jordan, have you
18 had any contact with this licensee?

19 MR. JORDAN: Not recently,
20 Mr. Chairperson. We have had email contact in
21 the past since the status hearing, but nothing
22 since this matter was continued.

23 CHAIRPERSON ANDERSON: All right, let
24 me have the parties introduce themselves for the
25 record. We'll start with you, Mr. Jordan.

1 MR. JORDAN: Good afternoon,
2 Mr. Chairperson. James Jordan, on behalf of the
3 District. That's J-A-M-E-S J-O-R-D-A-N.

4 CHAIRPERSON ANDERSON: And who's with
5 you this morning, sir?

6 MR. JORDAN: With me are investigators
7 Kevin Puente and George Garcia.

8 CHAIRPERSON ANDERSON: This matter was
9 scheduled for a show-cause hearing. I'm trying
10 to see whether or not the licensee is online, and
11 if the licensee is anywhere online, can you
12 please identify yourself through the chat, for us
13 to make a determination if you're here.

14 This matter was scheduled for the
15 show-cause hearing at 10:30 a.m. It is now
16 12:00 noon.

17 And so, I'm not sure if the person was
18 online at a point this morning. But we'll just
19 wait a couple more minutes to see if the
20 individual identifies themselves on the chat for
21 us to begin.

22 MS. FASHBAUGH: Chairperson, I see a
23 raised hand. Emebet, I'm going to unmute you.
24 Are you part of this case?

25 MS. HABTEMARIAM: Yes.

1 CHAIRPERSON ANDERSON: All right,
2 thank you. I'm glad that we do that. Yes. Do
3 you have a camera? I can hear you. Do you have
4 a camera?

5 MS. HABTEMARIAM: Yes. I cannot do
6 it. I don't know how.

7 CHAIRPERSON ANDERSON: Ms. Fashbaugh,
8 have you elevated their rights for them for the
9 camera? I'm not sure if it's something internal.

10 MS. FASHBAUGH: Your rights have been
11 elevated.

12 MS. HABTEMARIAM: This arrow in my
13 couch, it's not working.

14 CHAIRPERSON ANDERSON: We have
15 elevated your rights for you to turn your camera
16 on. So, I'm trying to find it it's something
17 internal on your part. Have you tried to turn
18 your camera on?

19 MS. HABTEMARIAM: Yes, I'm trying.
20 But it's not coming on. It has a red light, a
21 raised arrow key.

22 CHAIRPERSON ANDERSON: You have the
23 red arrow?

24 MS. HABTEMARIAM: Mm-hmm. On the
25 camera.

1 CHAIRPERSON ANDERSON: I'm told from
2 the Agency's perspective that they have elevated
3 your rights for you to turn your camera on. So,
4 it's probably just an error. Not an error, a
5 technical issue on your part. But we can move
6 forward with -- well, we'll move forward.

7 I mean, I can hear you. And so, we
8 can move forward. All right, so this case is New
9 Dodge Market. So, let me have the parties
10 introduce themselves again for the record. Let's
11 start over again. Mr. Jordan, can you introduce
12 yourself for the record, please?

13 MR. JORDAN: Yes, Mr. Chairperson.
14 James Jordan, on behalf of the District of
15 Columbia. That's J-A-M-E-S J-O-R-D-A-N.

16 CHAIRPERSON ANDERSON: Who's the
17 licensee in this case. Can you please spell and
18 state your name for the record, please?

19 MS. HABTEMARIAM: Emebet, E-M-E-B-E-T,
20 last name Habtemariam, H-A-B-T-E-M-A-R-I-A-M.
21 Habtemariam.

22 CHAIRPERSON ANDERSON: Good morning.
23 And what's the relationship to this
24 establishment, Ms. Habtemariam?

25 MS. HABTEMARIAM: I'm the owner.

1 CHAIRPERSON ANDERSON: Okay, thank you
2 very much. I hear someone else in the
3 background. And I only need to have one person
4 speak. You're the owner. Unless that person's a
5 witness, they should not be speaking for this
6 hearing.

7 All right, Mr. Jordan, this is a show-
8 cause hearing. Are there any preliminary matters
9 in this case?

10 MR. JORDAN: No, Mr. Chairperson. No
11 preliminary matters at this time.

12 CHAIRPERSON ANDERSON: And are you --
13 Ms. Habtemariam?

14 MS. HABTEMARIAM: Yes?

15 CHAIRPERSON ANDERSON: If you're not
16 speaking, can you please mute your microphone,
17 please.

18 MS. HABTEMARIAM: Sure.

19 CHAIRPERSON ANDERSON: All right.
20 This is a show-cause hearing, meaning that the
21 Government will call witnesses to see whether or
22 not they can substantiate this matter.

23 The way we'll begin, the Government
24 will do an opening statement. The licensee will
25 also have an opportunity to have an opening

1 statement.

2 Once both parties have done an opening
3 statement, the Government will call its
4 witnesses. The licensee will have an opportunity
5 to cross-examine the witness once the Government
6 has presented its case. Then, the licensee will
7 present its case.

8 Ms. Habtemariam, do you have any
9 questions on how this matter is moving forward?

10 MS. HABTEMARIAM: No.

11 CHAIRPERSON ANDERSON: All right. And
12 so, at the beginning, so now does the Government
13 wish to make an opening statement?

14 MR. JORDAN: Yes, Mr. Chairperson.

15 CHAIRPERSON ANDERSON: All right, go
16 ahead, sir.

17 MR. JORDAN: Good afternoon,
18 Mr. Chairperson and Board members. We are here
19 today in the show-cause matter of HSR
20 Incorporated, trading as New Dodge Market.

21 The show-cause notice in this matter
22 concerns the charge that the licensee sold
23 alcohol to a minor, in violation of D.C. Code,
24 Section 25-781.

25 The facts will establish that on

1 August 22, 2021 ABRA investigators Kevin Puente
2 and George Garcia visited the establishment with
3 an undercover minor, and established that a sale
4 to a minor occurred.

5 You will hear from investigator
6 Puente, that at approximately 5:00 p.m. he met
7 with the undercover minor, and ensured that the
8 minor's identification clearly stated the date of
9 birth, January 2001.

10 At the time of the compliance checks,
11 the minor was 20 years old. Investigator Puente
12 then accompanied the minor on these compliance
13 checks, keeping a watchful eye on the actions of
14 establishment staff.

15 At New Dodge Market, the minor
16 entered, picked up a can of Twisted Hard Iced
17 Tea, and approached the cashier.

18 In view of the undercover investigator
19 Puente, the cashier proceeded to sell alcohol to
20 the minor. Investigator Puente and the minor
21 left the establishment and the minor turned over
22 the Twisted Hard tea to Puente.

23 Investigator George Garcia then
24 entered the establishment. He identified himself
25 as an ABRA investigator and informed the ABC

1 manager of the violation. The manager then
2 signed a sale-to-minor notification form.

3 At the end of this hearing, the
4 District requests the Board apply a penalty
5 consistent with D.C. Code, Section 25-830. Thank
6 you.

7 CHAIRPERSON ANDERSON:

8 Ms. Habtemariam, do you wish to make an opening
9 statement now, or do you wish to make that
10 statement once you present your case?

11 MS. HABTEMARIAM: I will do it now.

12 CHAIRPERSON ANDERSON: And an opening
13 statement is just, you're going to tell us --
14 okay, go ahead, ma'am.

15 MS. HABTEMARIAM: Okay, sir. Dear
16 Board members. As you know, most small business
17 in D.C. area is struggling to find and to keep
18 experienced employees because of employees
19 getting sick of COVID and employee turnover.

20 Because of major reason, I am forced
21 to hire inexperienced employees. Unfortunately,
22 ABC manager who sold to minor just start only one
23 week ago.

24 I am appealing to the Board to
25 consider the above issue, asking to give me

1 abatement for the violation. Thank you.

2 CHAIRPERSON ANDERSON: All right. So,
3 I guess the issue then, where we are in this
4 case, so are you then stating, ma'am, that the
5 sale did occur? Are you admitting that the sale
6 did occur?

7 MS. HABTEMARIAM: Yes.

8 CHAIRPERSON ANDERSON: And so, well,
9 if there's agreement that the sale occurred, then
10 we don't necessarily need to take testimony on
11 the underlying violation.

12 It appears that where we are now, that
13 it's the penalty stage. Because, from what I'm
14 hearing, the licensee is asking for abatement.
15 Is asking the Board to abate the fine. Is that
16 what you are asking, ma'am?

17 MS. HABTEMARIAM: Yes.

18 CHAIRPERSON ANDERSON: Now,
19 Mr. Jordan, I believe that we can dispense with
20 the presentation of witnesses, because the
21 licensee has basically admitted that the sale has
22 occurred.

23 And so, one of the things that we can
24 do is, why don't we then move towards the penalty
25 phase. Where are we? What is the violation?

1 What is it that you are asking the Board to do,
2 based on the violation?

3 And then, I'll have the licensee once
4 again state, yes, that they agree that there's a
5 violation, and the type of penalty that they
6 asked, if any, that they're asking the Board to
7 impose. Is there agreement between the parties
8 on that issue?

9 MR. JORDAN: Yes, Mr. Chairperson.

10 CHAIRPERSON ANDERSON:

11 Ms. Habtemariam, do you agree with that, ma'am?

12 MS. HABTEMARIAM: Yes.

13 CHAIRPERSON ANDERSON: All right.

14 Okay, so, Mr. Jordan, we don't need, then, the
15 witnesses to testify, because the licensee has
16 agreed that the sale to a minor did occur, that
17 the violation did occur.

18 So, we just want to take testimony on
19 what penalty, if any, the Board should impose,
20 based on this violation.

21 And so, therefore, Mr. Jordan, I can
22 have you, on the record, just state what the
23 violation is and what penalty is being
24 recommended by the Government that the Board
25 should consider.

1 MR. JORDAN: Yes, Mr. Chairperson.
2 The violation here is a sale-to-minor, in
3 violation of D.C. Code, Section 25-781.

4 As this is the second sale to a minor
5 this establishment has been found in violation of
6 within the last two years, the District is
7 recommending a penalty more in line with D.C.
8 Code, Section 25-781(f)(2), which is a \$2,000
9 minimum fine.

10 CHAIRPERSON ANDERSON: Now, I guess,
11 based on this violation, are you aware are there
12 any other penalties, if any, that were triggered
13 based on this now violation?

14 MR. JORDAN: Yes, Mr. Chairperson. A
15 prior Offer-in-Compromise with suspension dates
16 stayed was triggered. That was four suspension
17 days from -- and I can provide the case number if
18 the --

19 CHAIRPERSON ANDERSON: What's that,
20 sir?

21 MR. JORDAN: That is -- Board's
22 indulgence. That is case number 20-CC-00065.

23 CHAIRPERSON ANDERSON: Okay. And
24 what's the date of this lead?

25 MR. JORDAN: The date of the offense

1 was July 30, 2020. A status settlement occurred
2 November 4, 2020.

3 CHAIRPERSON ANDERSON: November what
4 date? I'm sorry?

5 MR. JORDAN: Yes, November 4, 2020.

6 CHAIRPERSON ANDERSON: And when did
7 this violation occur?

8 MR. JORDAN: The instant violation,
9 Mr. Chairperson?

10 CHAIRPERSON ANDERSON: Yes, yes.

11 MR. JORDAN: That was August 22, 2021.

12 CHAIRPERSON ANDERSON: All right,
13 thank you, sir. Ms. Habtemariam, now, you heard
14 that -- you have admitted to the violation
15 occurring, and that the sale to a minor did
16 occur.

17 So, what is it that you're asking the
18 Board then to do, based on the fact that you are
19 agreeing to the violation?

20 MS. HABTEMARIAM: I'm asking to reduce
21 the penalty. The suspension.

22 I'm a mother with three kids, and I
23 cannot stay there every time. But everyone who I
24 hire, I explain. I show them how to do. But,
25 you know.

1 For example, the guy looked at the
2 driver license, but the identity check if he be
3 making mistake.

4 So, people make mistake, but just to
5 reduce the penalty I'm asking. It's been hard
6 for me also.

7 CHAIRPERSON ANDERSON: So, you're
8 asking us to reduce the penalty. Are you aware
9 that because this other violation occurred less
10 than one year after previous violation, that
11 there are other penalties that are imposed based
12 on that previous violation?

13 MS. HABTEMARIAM: Yes, sir. But, you
14 know, I don't have ABC manager every time, every
15 shift. But I don't know how that they make
16 mistake.

17 CHAIRPERSON ANDERSON: Okay, ma'am.
18 So, basically, all you're asking us to do is to
19 reduce the penalty.

20 So, you're stating that you're guilty
21 and you're asking the Board to reduce the
22 penalty. And again, why is it you're asking the
23 Board to reduce the penalty?

24 (Simultaneous speaking.)

25 MS. HABTEMARIAM: Suspension also.

1 CHAIRPERSON ANDERSON: I'm sorry?

2 MS. HABTEMARIAM: The suspension also.
3 The penalty and the suspension.

4 CHAIRPERSON ANDERSON: You're asking
5 the Board to reduce the penalty and the
6 suspension. And why should the Board reduce the
7 penalty and the suspension, ma'am?

8 MS. HABTEMARIAM: You know, I just,
9 it's a small business. I'm struggling to stay
10 open. And it's been a lack of issue.

11 It's not only ABC manager. I have a
12 lot of issues. So, I want the Board to consider
13 my situation.

14 CHAIRPERSON ANDERSON: And what type
15 of establishment do you own, ma'am?

16 MS. HABTEMARIAM: A small business.

17 CHAIRPERSON ANDERSON: No, I'm sorry.
18 Are you a liquor store? Are you a grocery? What
19 type of business do you have, ma'am?

20 MS. HABTEMARIAM: It's like a grocery.

21 CHAIRPERSON ANDERSON: And what type
22 of license do you have for this grocery, ma'am?

23 MS. HABTEMARIAM: What do you mean?
24 A grocery store license.

25 CHAIRPERSON ANDERSON: Okay. All

1 right. You have anything else you need to say,
2 ma'am?

3 MS. HABTEMARIAM: No.

4 CHAIRPERSON ANDERSON: Okay, thank
5 you.

6 MS. HABTEMARIAM: Thank you.

7 CHAIRPERSON ANDERSON: All right, as
8 Chairperson of the Alcoholic Beverage Control
9 Board for the District of Columbia, in accordance
10 with D.C. Office Code, Section 2574(b) of the
11 Open Meetings Act, I move that the ABC Board hold
12 a closed meeting for the purpose of seeking legal
13 advice from our counsel on Case No. 21-CC-00031,
14 New Dodge Market, pursuant to D.C. Official Code,
15 Section 2574(b)(4) of the Open Meetings Act, and
16 deliberating upon Case No. 21-CC-00031, New Dodge
17 Market, for the reasons cited in D.C. Official
18 Code, Section 2574(b)(13) of the Open Meetings
19 Act. Is there a second?

20 MEMBER CROCKETT: Ms. Crockett
21 seconds.

22 CHAIRPERSON ANDERSON: Ms. Crockett
23 has seconded the motion. We'll now have a roll
24 call vote. Mr. Short.

25 MEMBER SHORT: Mr. Short. I agree.

1 CHAIRPERSON ANDERSON: Mr. Cato.

2 MEMBER CATO: Bobby Cato. I agree.

3 CHAIRPERSON ANDERSON: Ms. Crockett.

4 MEMBER CROCKETT: Rafi Crockett. I
5 agree.

6 CHAIRPERSON ANDERSON: Ms. Hansen.

7 MEMBER HANSEN: Jeni Hansen. I agree.

8 CHAIRPERSON ANDERSON: Mr. Grandis.

9 MEMBER GRANDIS: Edward Grandis. I
10 agree.

11 CHAIRPERSON ANDERSON: And

12 Mr. Anderson, I agree. As it appears that the
13 motion has passed 6-0-0, I hereby take notice
14 that the ABC Board will recess its proceedings to
15 hold a closed meeting in the ABC Board conference
16 room, pursuant to Section 2574(b) of the Open
17 Meetings Act.

18 Thank you, Mr. Jordan. Thank you,
19 Ms. Habtemariam. The Board will take the
20 recommendations of the Government under
21 consideration.

22 The Board will also take the
23 recommendation of the licensee under
24 consideration, and we will issue an order
25 accordingly.

1 Thank you very much and have a great
2 day.

3 MS. HABTEMARIAM: Thank you so much.
4 Have a nice day.

5 CHAIRPERSON ANDERSON: Thank you.
6 Bye, then. Bye-bye.

7 MS. HABTEMARIAM: Bye.

8 (Whereupon the above-entitled matter
9 went off the record at 12:23 p.m.)

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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: New Dodge Market

Before: DC ABRA

Date: 03-23-22

Place: teleconference

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Court Reporter

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