

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF: :
: :
MST Enterprises, Inc., :
t/a Churreria Madrid :
Restaurant :
2505 Champlain Street NW : Show Cause
License #60806 : Hearing
Retailer CR - ANC 1C :
Case #20-CMP-00017 :
:
(Provided Entertainment :
Without an Entertainment :
Endorsement) :

Wednesday
April 7, 2021

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

ALSO PRESENT:

SIMONE ANDREWS, DC ABRA Staff
ERNESTO GIRON, Licensee
JOHN LUI, DC OAG
MARK RUIZ, DC ABRA Investigator

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

2 1:50 p.m.

3 CHAIRPERSON ANDERSON: The next case
4 on our calendar is case number 20-CMP-00017,
5 Churreria Madrid Restaurant, license number
6 60806. Ms. Andrews, can you please elevate the
7 rights of the licensee and the investigator in
8 this case, please?

9 MS. ANDREWS: Sure, stand by.

10 CHAIRPERSON ANDERSON: Thank you.

11 MS. ANDREWS: Mr. Lui, your rights
12 have been elevated. Mr. Ruiz, your rights have
13 been elevated. Mr. Giron, your rights have been
14 elevated. That's all, Mr. Chair.

15 CHAIRPERSON ANDERSON: Thank you. All
16 right, good afternoon, everyone. This is case
17 number 20-CMP-00017, Churreria Madrid Restaurant,
18 license number 60806. Lets have the parties
19 introduce themselves for the record. Lets start
20 with the Government, please.

21 MR. LUI: Good afternoon, Mr.
22 Chairperson. Jon Lui on behalf of the Government
23 or District of Columbia, that's J-O-N L-U-I.

24 CHAIRPERSON ANDERSON: Good afternoon,
25 Mr. Lui. Mr., I'm sorry, sir, I forgot your

1 name. The licensee.

2 MR. GIRON: Ernesto Giron.

3 CHAIRPERSON ANDERSON: Can you spell
4 your first and last name, sir?

5 MR. GIRON: Sure, first name, E-R-N-E-
6 S-T-O. Last name is Giron, G-I-R-O-N.

7 CHAIRPERSON ANDERSON: Good afternoon,
8 Mr. Giron. It appears that you are in a moving
9 vehicle, sir. Is that correct?

10 MR. GIRON: Yes, I'm not driving, I'm
11 the passenger. I was hoping to get over by this
12 time, but I wasn't able.

13 CHAIRPERSON ANDERSON: Well I think
14 by -

15 MR. GIRON: And --

16 (Simultaneous speaking.)

17 CHAIRPERSON ANDERSON: But part of the
18 problem, sir, is that you're in a moving vehicle
19 and so I'm not quite sure, how much longer will
20 it be before you get to your location, sir?

21 MR. GIRON: It's going to be about
22 eight, 10 minutes.

23 CHAIRPERSON ANDERSON: I would prefer,
24 sir, that we postpone that--we pause this hearing
25 until you get to your location. Although you've

1 stated that you are a passenger in a vehicle, I
2 don't believe that it is safe. I mean I think
3 part of the problem is that I'm not sure if the
4 internet connection will be, so it's 1:53 p.m.
5 and about what time do you believe that you will
6 get to your location, sir?

7 MR. GIRON: Just slightly after 2.

8 CHAIRPERSON ANDERSON: I'm sorry, what
9 did you say, sir?

10 MR. GIRON: Slightly after 2, like
11 2:03, 10 minutes.

12 CHAIRPERSON ANDERSON: All right, so
13 it's 1:53, we're going to go off the record until
14 2:15. So, we'll be off the record until 2:15 and
15 so you can call back in, sir, at 2:15.

16 (Whereupon, the above-entitled matter
17 went off the record at 1:53 p.m. and resumed at
18 2:46 p.m.)

19 CHAIRPERSON ANDERSON: Okay. Let's
20 recall Case #20-CMP-00017, Churreria Madrid
21 Restaurant, License #60806.

22 Ms. Andrews, can you please elevate
23 the right of the Government and also the Licensee
24 in this case, too, please.

25 MS. ANDREWS: Sure. Stand by.

1 CHAIRPERSON ANDERSON: Thank you.

2 MS. ANDREWS: Mr. Lui, you've been
3 elevated.

4 Mr. Ruiz, your rights have been
5 elevated.

6 Mr. Giron have been elevated.

7 That's all, Mr. Chair.

8 CHAIRPERSON ANDERSON: Thank you.

9 All right. Mr. Giron, now I feel safe
10 that we can do this hearing. It's safely back on
11 to me. And so I want to make sure. I would not
12 want to be, although you were a passenger in a
13 vehicle, sir, but I would not want to be on it on
14 our You Tube channel and see something happen in
15 front of our eyes and so that's one of the
16 reasons why I insisted that you're at a
17 stationary position to do this hearing.

18 MR. GIRON: Okay.

19 CHAIRPERSON ANDERSON: All right.
20 Thank you.

21 All right. Mr. Lui, can you identify
22 yourself for the record, please.

23 MR. LUI: Yes. Good afternoon, Mr.
24 Chairperson and board members. My name is John
25 Lui on behalf of the District of Columbia.

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

4 MR. GIRON: Yes. Ernesto Giron,
5 E-R-N-E-S-T-O last name G-I-R-O-N.

6 CHAIRPERSON ANDERSON: Thank you. And
7 what's your relationship to the establishment?

8 MR. GIRON: I'm the owner, Vice
9 President of the corporation.

10 CHAIRPERSON ANDERSON: Thank you. All
11 right.

12 This is a Show Cause Hearing. Are
13 there any preliminary matters here, Mr. Lui?

14 MR. LUI: No, there are not.

15 CHAIRPERSON ANDERSON: All right. So,
16 is the Government ready to move forward in this
17 case?

18 MR. LUI: yes, Mr. Chairperson.

19 CHAIRPERSON ANDERSON: Mr. Giron, this
20 is a Show Cause Hearing and so basically I'm not
21 sure if you have participated in a Show Cause
22 Hearing before. The Government will -- both
23 sides will provide an opening statement to say
24 what the case is, what interest that they have,
25 what they intend to prove.

1 The Government will call its witness
2 and the Government will question its witness.
3 You will then have an opportunity to
4 cross-examine the witness by the Government.
5 After the Government has rested its case, then
6 you will have an opportunity to call witness. I
7 don't know, are you bringing witnesses, sir, or
8 are the only one who is testifying.

9 MR. GIRON: I'm the only one testifying
10 today.

11 CHAIRPERSON ANDERSON: All right. And
12 so then I will swear you in. You will testify.
13 Mr. Lui will cross-examine you. And the board
14 then will ask questions of you. After you're
15 done I'll ask both sides to make closing
16 arguments and then the case will be over.

17 So, closing arguments basically is
18 that you're saying to the board what it is that
19 you've proven or the Government has proven. The
20 Government will say to us what is it that --
21 specifically what it is that they want the board
22 -- whether or not the Government has met its
23 burden of proof that the violation that you were
24 charged with and you will do your closing and
25 then you'll say that the Government, if that's

1 your desire, that the Government has not met its
2 burden, what is it that your case proves and what
3 it is that you want the case -- what it is that
4 you're asking the agency to do.

5 Do you have any questions you want to
6 ask, sir?

7 MR. GIRON: Not at the moment. I'm
8 going to wait for the opening statement.

9 CHAIRPERSON ANDERSON: All right. Okay,
10 fine.

11 Okay. So, Mr. Lui, you wish to do an
12 opening statement?

13 MR. LUI: Yes, very briefly.

14 CHAIRPERSON ANDERSON: Yes.

15 MR. LUI: Good afternoon, board
16 members. We are here today in the Show Cause
17 matter of MST Enterprises, Inc., trading as
18 Churreria.

19 CHAIRPERSON ANDERSON: Hold on. Mr.
20 Giron, can you put your phone on mute, please, if
21 you have not done so.

22 MR. GIRON: I'm sorry, say it again.

23 CHAIRPERSON ANDERSON: Can your mute
24 your microphone, please.

25 MR. GIRON: Okay.

1 CHAIRPERSON ANDERSON: Yes, that's
2 where the background was coming from.

3 Go ahead, Mr. Lui.

4 MR. LUI: We are here today in the Show
5 Cause matter of MST Enterprises, Inc., trading as
6 Churreria Madrid Restaurant located at 2505
7 Champlain Street, Northwest.

8 The Show Cause notice issued in this
9 matter concerns the sole charge that the Licensee
10 provided live entertainment in the form of a disc
11 jockey without an entertainment endorsement in
12 violation of D.C. Code Section 25-113AB1.

13 The evidence will show that on
14 Wednesday, January 1st, 2020, at approximately
15 2:55 a.m. Alcoholic Beverage Regulation
16 Administration, investigators Mark Ruiz and
17 Anthony Delosantos were monitoring and heard
18 amplified music emanating from the establishment.
19 The investigators entered and observed a disc
20 jockey providing live entertainment by
21 manipulating a turntable in mixing music.

22 Ernesto Giron, the owner, provided the
23 establishment's ABC License to Investigator Ruiz
24 that showed that it lacked an entertainment
25 endorsement.

1 That's it.

2 CHAIRPERSON ANDERSON: Thank you.

3 Mr. Giron, do you wish to make an
4 opening statement now or you can make it when you
5 present your case? You need to unmute your
6 phone, sir.

7 MR. GIRON: I can make a statement.

8 CHAIRPERSON ANDERSON: Yes, sir, go
9 ahead.

10 MR. GIRON: Yes. I do not dispute that
11 we had a DJ that one night. Unfortunately, the
12 reason why the investigator came into the
13 restaurant is not -- it's omitted from the report
14 and that's what I'm going to show why he actually
15 came into a restaurant on New Year's Eve.

16 CHAIRPERSON ANDERSON: Let me ask a
17 question. Is there agreement -- okay. The
18 charge in this case -- hold on, what is the
19 charge?

20 The charge in this case is to provide
21 Entertainment Without an Entertainment
22 Endorsement. That's the charge, is that correct?

23 MR. GIRON: Yes.

24 CHAIRPERSON ANDERSON: And so, Mr.
25 Giron, are you stating that that is correct?

1 MR. GIRON: Yes.

2 CHAIRPERSON ANDERSON: You don't have
3 to say that, you can say no. what I'm trying to
4 say if you're saying that it's true and then you
5 have an explanation -- and then you have
6 explanation then we just argue about explanation
7 and then you could say that -- that I shouldn't
8 be punished for this so whatever we can make the
9 argument. But are you disputing that it wasn't
10 that you provided entertainment without an
11 entertainment endorsement. And that's what I'm
12 just asking. If you are disputing that then we
13 can go -- we can go to the hearing. But if
14 you're say that, yes, that's correct, but I have
15 an explanation then we can agree that, yes, the
16 charge is correct and then you try to explain it
17 away. So, that's what -- I'm not trying to
18 influence on it. I'm just trying to get some
19 clarification.

20 MR. GIRON: Yes. I'm not disputing
21 that we had a disc jockey that one night, no.

22 CHAIRPERSON ANDERSON: All right.
23 Okay.

24 So, if the parties agree then -- well,
25 I'm not sure in this particular case. You know

1 what, let me -- let me have you do your case, Mr.
2 Lui, because I think that although Mr. Giron is
3 saying that he's not disputing it I think he has
4 a different explanation about why the
5 investigator was there. So, let's -- okay. So,
6 I'll have you -- I'll have you --

7 Mr. Giron, you always have to put
8 your phone on mute. And you have to remember to
9 unmute yourself. There's some feedback, that's
10 why I always remind you. And my screen tells me
11 who is speaking and whose phone, whose phone is
12 unmuted.

13 All right. So, I'll have you present
14 your case, Mr. Liu, and then we just make a
15 decision. Do you have a witness you wish to
16 call?

17 MR. LUI: Yes, Mr. Chairperson, thank
18 you. The Government would like to call
19 Investigator Mark Ruiz.

20 CHAIRPERSON ANDERSON: Mr. Ruiz, can
21 you raise your right hand, please.

22 Do you swear or affirm to tell the
23 truth and nothing but the truth?

24 INVESTIGATOR RUIZ: I do.

25 CHAIRPERSON ANDERSON: Thank you. Your

1 witness, Mr. Lui.

2 MR. LUI: Thank you.

3 DIRECT EXAMINATION

4 MR. LUI: Could you please state and
5 spell your first and last name for the record?

6 INVESTIGATOR RUIZ: Yes. First name is
7 Mark, M-A-R-K last name is Ruiz, R-U-I-Z.

8 MR. LUI: Mr. Ruiz, where are you
9 currently employed?

10 INVESTIGATOR RUIZ: Alcoholic Beverage
11 Regulation Administration.

12 MR. LUI: And what is your position at
13 the Alcoholic Beverage Regulation Administration?

14 INVESTIGATOR RUIZ: Investigator.

15 MR. LUI: And how long have you been an
16 investigator?

17 INVESTIGATOR RUIZ: Just over two years
18 now.

19 MR. LUI: And what are your duties and
20 responsibilities as an investigator?

21 INVESTIGATOR RUIZ: To inspect and
22 investigate ABRA licensed establishments in the
23 District of Columbia.

24 MR. LUI: Are you familiar with
25 Churreria Madrid Restaurant?

1 INVESTIGATOR RUIZ: I am.

2 MR. LUI: How are you familiar with
3 this establishment?

4 INVESTIGATOR RUIZ: I visited it for
5 inspections on numerous occasions.

6 MR. LUI: Focusing on what happened on
7 January 1st, 2020. What happened that evening?

8 INVESTIGATOR RUIZ: On that evening
9 while I'm monitoring establishments within the
10 city visited Churreria Madrid during that evening
11 after observing loud music.

12 MR. LUI: And what happened after that
13 after you heard the loud music?

14 INVESTIGATOR RUIZ: I entered the
15 establishment, made my way up the steps and
16 located the source of the music which was a DJ.

17 MR. LUI: And were you accompanied by
18 another investigator?

19 INVESTIGATOR RUIZ: Yes.

20 MR. LUI: And who?

21 INVESTIGATOR RUIZ: Investigator
22 Delosantos and Investigator Platos and Quente
23 were present as well. We were walking together.

24 MR. LUI: And what happened after you
25 walked up the steps?

1 INVESTIGATOR RUIZ: Noticed the DJ and
2 then verified whether they had an entertainment
3 endorsement.

4 MR. LUI: Could you describe the DJ?

5 MR. RUIZ: The DJ which was located in
6 the front, the second level, front of the
7 establishment by the window equipped with a
8 laptop and mixing board. Was actively mixing
9 these playing music.

10 MR. LUI: Well, what happened after you
11 observed the disc jockey manipulating music and
12 the turntable?

13 INVESTIGATOR RUIZ: I verified the
14 license again for the entertainment endorsement,
15 discovered that there was no entertainment
16 endorsement attached to the license for that
17 evening.

18 MR. LUI: Okay. And who provided you
19 the ABC license?

20 INVESTIGATOR RUIZ: The owner, Mr.
21 Giron.

22 MR. LUI: I'm going to show you a
23 document marked as Government 1 for
24 identification.

25 (Whereupon, the above-referred to

1 document was marked as Government Exhibit 1 for
2 identification.)

3 MR. LUI: Ms. Andrews if you can
4 elevate my rights to share a document.

5 MS. ANDREWS: Sure. Stay on the line.

6 MR. LUI: Thank you.

7 MS. ANDREWS: Okay, Mr. Lui, it is now.

8 MR. LUI: Thank you. Investigator
9 Ruiz, could you identify this document?

10 INVESTIGATOR RUIZ: Yes. That is the
11 case report that I drafted for this case.

12 MR. LUI: What is the case number?

13 INVESTIGATOR RUIZ: 20-CMP-00017.

14 MR. LUI: All right. And what is the
15 -- when is the date of occurrence?

16 INVESTIGATOR RUIZ: January 1st, 2020.

17 MR. LUI: And did you sign t his
18 report?

19 INVESTIGATOR RUIZ: I did.

20 MR. LUI: And you drafted this report?

21 INVESTIGATOR RUIZ: Yes.

22 MR. LUI: And this is a fair and
23 accurate representation of the case report that
24 you drafted and prepared Case Number 20-CMP-0017
25 for the incident occurring on January 1st, 2020?

1 INVESTIGATOR RUIZ: Yes.

2 MR. LUI: Mr. Chairperson, at this time
3 the Government would like to move Government
4 Exhibit 1 into evidence.

5 CHAIRPERSON ANDERSON: It's so moved
6 but you don't have to necessarily move it into
7 evidence, Mr. Lui. It's operated by statute, it
8 is a part of the evidence -- it's a part of the
9 record but it's so moved.

10 MR. LUI: Thank you, Mr. Chairperson.

11 Investigator Ruiz, just directing your
12 attention to Exhibit 1 of the case report, can
13 you see this document?

14 INVESTIGATOR RUIZ: Yes.

15 MR. LUI: What is it?

16 INVESTIGATOR RUIZ: This is a photo of
17 the DJ actively mixing music.

18 MR. LUI: What else appears in this
19 picture?

20 INVESTIGATOR RUIZ: A laptop and a DJ
21 mixing board.

22 MR. LUI: I'm directing your attention
23 to --it's blurry but Exhibit 4 of the case
24 report. What is this document?

25 INVESTIGATOR RUIZ: That is a photo of

1 the alcohol license.

2 MR. LUI: What is observed -- what can
3 you observe on the ABC license?

4 INVESTIGATOR RUIZ: The name of the
5 establishment, the license number as well as
6 endorsements which only allows them the holiday
7 extension.

8 MR. LUI: What is lacking from the
9 license?

10 INVESTIGATOR RUIZ: An entertainment
11 endorsement.

12 MR. LUI: I have no further questions
13 for this witness, Mr. Chairperson. Thank you.

14 CHAIRPERSON ANDERSON: Thank you.

15 Mr. Giron, do you have any questions
16 for Mr. Ruiz?

17 MR. GIRON: I do. I have two
18 questions.

19 CHAIRPERSON ANDERSON: Well, ask him,
20 sir.

21 CROSS-EXAMINATION

22 MR. GIRON: Okay. Mr. Ruiz, when you
23 came into the restaurant did you remember what
24 you were actually asking about when you came in
25 and you started saying about how we were in

1 violation --

2 (Simultaneous speaking.)

3 INVESTIGATOR RUIZ: I don't recall.

4 MR. GIRON: And then do you remember
5 when the other investigator the female
6 investigator showed up and told you that we had
7 the endorsement to be on the extended hours and I
8 was trying to explain that to you and you needed
9 proof and I forgot that it was on the license
10 until she showed you. Do you remember that?

11 INVESTIGATOR RUIZ: I do now, yes.

12 MR. GIRON: Yes. That was the reason --

13 (Simultaneous speaking.)

14 INVESTIGATOR RUIZ: -- the extension
15 and you have it on your license.

16 MR. GIRON: Yes. The reason why you
17 came in that day, do you remember it was because
18 you thought we were in violation of the hours.

19 INVESTIGATOR RUIZ: That's correct.

20 MR. GIRON: Yes.

21 INVESTIGATOR RUIZ: That was part of
22 the reason as well, yes.

23 MR. GIRON: That was the main reason.

24 And that's it. That's it. That's all I got.

25 CHAIRPERSON ANDERSON: Do you have any

1 other questions, sir?

2 MR. GIRON: No.

3 CHAIRPERSON ANDERSON: Let me, Mr.
4 Ruiz, as an investigator when you were -- what
5 were you looking for when -- when you go out what
6 is it that you look for when you go to -- I mean,
7 what was the purpose of going out there?

8 INVESTIGATOR RUIZ: Well, that night
9 was New Year's Eve holiday, New Year's Day. So,
10 we were monitoring ABRA establishments and
11 insuring that (1) they were following the holiday
12 extension -- they had a holiday extension and
13 were following the regulations for that evening
14 as well as capacities of the restaurants as well.

15 CHAIRPERSON ANDERSON: I'm sorry.
16 Specifically, when you go out, when you were out
17 that night what were you looking for when you
18 visited different establishments? Tell me what
19 is it you're looking for as part of your -- as
20 part of your duties that night?

21 INVESTIGATOR RUIZ: That they're
22 operating according to the law. That they have
23 an ABRA manager on duty. They are operating
24 within their license hours as well as having
25 proper endorsements for live entertainment as

1 well as a cover charge.

2 CHAIRPERSON ANDERSON: Any other
3 questions by the board members?

4 Mr. Giron, any questions of Mr. Ruiz
5 based on the questions that I asked?

6 MR. GIRON: No, sir.

7 CHAIRPERSON ANDERSON: No. Mr. Lui,
8 any questions of Mr. -- and follow-up questions
9 of Mr. Ruiz?

10 MR. LUI: No, Mr. Chairperson. Thank
11 you.

12 CHAIRPERSON ANDERSON: All right. Mr.
13 Ruiz, thank you very much for your testimony.
14 You can -- you are released.

15 Mr. Lui, do you have another witness?

16 MR. LUI: No, Mr. Chairperson.

17 CHAIRPERSON ANDERSON: Do you rest?

18 MR. LUI: Yes. The Government rests.

19 CHAIRPERSON ANDERSON: All right.

20 Thanks.

21 Mr. Giron, can you raise your right
22 hand, please.

23 Do you swear or affirm that -- move
24 your hand up.

25 Do you swear or affirm to tell the

1 truth and nothing but the truth?

2 MR. GIRON: Yes, I do.

3 CHAIRPERSON ANDERSON: All right. Go
4 ahead, sir.

5 MR. GIRON: Okay, the statement, is
6 that what --

7 CHAIRPERSON ANDERSON: I'm sorry, say
8 what, sir?

9 MR. GIRON: I don't know. Is John Lui
10 going to ask me questions or --

11 CHAIRPERSON ANDERSON: No. You are --
12 you are to explain your case, sir. But you're
13 now putting your case on so since I swear you in,
14 you tell me your position, what happened that
15 night and then once you're done Mr. Lui will ask
16 you questions on cross-examination. I will ask
17 question on cross and then the board might ask
18 questions of you. But, just remember once you
19 state your position then Mr. Lui is going to
20 cross-examine you, sir. Okay. Go ahead.

21 MR. GIRON: Yes. That one night it was
22 New Year's Eve. We had just a few people. It
23 wasn't a packed house at all. And we decided to
24 have a DJ just to bring more people hopefully,
25 you know, to spend money. Then around, right

1 before 3:00 a.m., like 2:55 the investigator came
2 in and he came in running, started explaining me,
3 you are in violation, you're in violation. You
4 still serving drinks. It's almost 3:00 a.m. And
5 he ran upstairs and he went down. His other
6 partner came in and he told them, take photos
7 because they're in violation. It's almost 3:00
8 they should be closed. And I told him, look, we
9 have an extension for the extended hours. We
10 have endorsement. He said, show me proof. And I
11 -- I didn't even know that it was written on the
12 license itself. Because the year before we had a
13 letter that was proof ABRA sent a letter to all
14 the businesses were in the extended hour program.
15 And I didn't have that letter anymore and he
16 said, well, you can't prove it to me I'm going to
17 write you up and, you know, that you are in
18 violation of your hours. And I kept telling him,
19 look, we are part of the extended hours program.
20 And he wouldn't have it.

21 Then a female investigator came in and
22 she asked him what's going on and he explained to
23 her, they're in violation. They're still serving
24 drinks, they should be closed. And she said,
25 show me the license. And I showed her the

1 license and she pointed out they have -- they can
2 be open until 4:00 because they're part of the
3 extended program, extended hours program. And
4 she left. That was all she said. She was like,
5 let's go. And he just stood there. I guess he
6 was embarrassed and he was just looking - - and,
7 yes, I had a DJ, I know I shouldn't have. I
8 didn't know that I could apply for an extension
9 for one day. But we never had a DJ and I
10 thought, it's New Year's and I need money,
11 probably going to, you know, bring more people
12 like that. And he went upstairs and he took
13 photos and he said I'm going to write you up for
14 the DJ since I can't write you up for the
15 extended hours. And that's it. And he did.

16 CHAIRPERSON ANDERSON: Is there
17 anything else you want to say?

18 MR. GIRON: No, that was it.

19 CHAIRPERSON ANDERSON: All right. Mr.
20 Lui, do you have any questions of Mr. Giron?

21 MR. LUI: Yes, just a few.

22 CROSS-EXAMINATION

23 MR. LUI: Mr. Giron, how long have you
24 been a business owner or how long have you owned
25 Churreria Madrid?

1 MR. GIRON: Almost 15 years.

2 MR. LUI: And are you familiar with the
3 ABC laws and regulations?

4 MR. GIRON: Yes, some, yes. Not all of
5 them.

6 MR. LUI: And are you familiar about
7 with how to apply for endorsements?

8 MR. GIRON: Yes, I applied for the
9 extended hour endorsement myself.

10 MR. LUI: What about the entertainment
11 endorsement?

12 MR. GIRON: I did apply for it but the
13 ANC in my area voted against it because they
14 didn't want -- they thought that it was going to
15 bring criminals to the area. So, they voted
16 against us getting the entertainment endorsement.

17 MR. LUI: Okay. And on the evening of
18 January 1st, 2020, you didn't have an
19 entertainment endorsement, did you?

20 MR. GIRON: No, I didn't.

21 MR. LUI: I have no further questions,
22 Mr. Giron, thank you.

23 REDIRECT EXAMINATION

24 CHAIRPERSON ANDERSON: Let me ask you
25 a question, Mr. Giron.

1 In your mind what is an entertainment
2 endorsement? Why did you apply for an
3 entertainment endorsement before?

4 MR. GIRON: Well, because we were
5 planning on having a band play and I was told
6 that I needed to have the endorsement because it
7 was a pretty popular band in the area local and
8 it was going to bring a lot of people from
9 Honduras. And they told me that I had to have
10 one because it was going to be probably too many
11 people. And I apply and it was -- it was denied.
12 And then on the day of the hearing I was told by
13 one of the investigators that was there like if I
14 wanted to have probably like a computer playing
15 that was going to be okay hooked up on the
16 bluetooth. And that was it, I mean, that one day
17 out of the whole year we had a DJ.

18 CHAIRPERSON ANDERSON: I'm sorry, you
19 had what?

20 MR. GIRON: After the, you know, we
21 were denied the endorsement.

22 CHAIRPERSON ANDERSON: Right.

23 MR. GIRON: One day I decided to have
24 a DJ and that was it.

25 CHAIRPERSON ANDERSON: So, were you

1 aware that if you have a DJ you need to have an
2 entertainment endorsement?

3 MR. GIRON: Yes, I was and I am.

4 CHAIRPERSON ANDERSON: So, okay. If
5 you apply you can have a band. You applied for
6 an entertainment endorsement and it was denied.
7 But then you decide to have a DJ and knowing that
8 you need to have an entertainment endorsement you
9 still had a DJ.

10 MR. GIRON: Right, yeah. When I apply
11 it was - forget the year, but it was -- it was
12 about one or two years before the incident when I
13 apply for the endorsement. And I didn't have a
14 band. I didn't have no DJ or live entertainment
15 at all throughout that one -- throughout that
16 whole time until that one day. One day and it
17 was New Year's Eve.

18 CHAIRPERSON ANDERSON: So, this
19 happened in January of 2020, so have you applied
20 to the agency to have a entertainment
21 endorsement?

22 MR. GIRON: No, I haven't. And at this
23 point I probably won't because the ANC in the
24 area wants to have a neighborhood agreement. But
25 if I have the neighborhood agreement I cannot be

1 part of the extended hours program. And we kind
2 of like doing the extended when we were able to.
3 So, that's why we decided not to.

4 And plus anyway right now we do
5 everything on bluetooth. We put a, you know, an
6 application and we just play music. We have a
7 sound system for that. So, there is no DJ needed
8 now.

9 CHAIRPERSON ANDERSON: Okay. I'm not
10 -- I'm not -- it's not my job to give legal
11 advice but I would suggest that you come in --
12 you have a conversation with the agency about
13 your activities. I don't know whether or not
14 it's legal or not, just to make sure that you are
15 complying with the law based on the understanding
16 that you talk to the agency about your business
17 model to make sure that you're in compliance with
18 the law, sir, that's all I'm saying. Okay.
19 That's all I'm saying.

20 Based on what you just presented I
21 would hope that you come into the agency and talk
22 to them about what it is that you're doing and
23 what is the best to comply with the law.

24 All right. Any questions by any of
25 the board members?

1 Mr. Lui, any questions of Mr. Giron
2 based on the questions that I asked.

3 MR. LUI: No, Mr. Chairperson.

4 CHAIRPERSON ANDERSON: Do you have
5 anything that you want to say, Mr. Giron?

6 MR. GIRON: Only that --

7 CHAIRPERSON ANDERSON: I'm going to
8 give you another opportunity again to close your
9 case and for you to tell us what did you want us
10 to do. But just at this stage, okay, anything
11 else you want to say?

12 MR. GIRON: Yes. Well, the only thing
13 is that if the board feels that I should be
14 punished for having a DJ --

15 CHAIRPERSON ANDERSON: No, we're not
16 there yet. I'm going to give you an opportunity.

17 MR. GIRON: Okay.

18 CHAIRPERSON ANDERSON: I'm going to
19 give you an opportunity to close and then you can
20 tell us what you want us to do. But you're still
21 testifying so I'm just saying based on the
22 questions that was asked did you have anything
23 else you want to clarify? Is there anything that
24 you want to say because we wrap us your case
25 because Mr. Lui is going to wrap up his case and

1 then I'm going to have you wrap up your case.

2 MR. GIRON: Okay. Yes, just that, you
3 know, I'll wait for the closing statement, that's
4 fine.

5 CHAIRPERSON ANDERSON: Okay, fine. So,
6 you rest now.

7 Mr. Lui, do you wish to make a
8 closing?

9 MR. LUI: Yes, briefly.

10 CHAIRPERSON ANDERSON: All right.

11 MR. LUI: The Government has proven by
12 a preponderance of the evidence that Licensee
13 provided entertainment in the form of a disc
14 jockey without the proper endorsement.

15 We heard from Investigator Ruiz that
16 on Wednesday, January 1st, 2020, at approximately
17 2:55 a.m. who was monitoring and hear amplified
18 music emanating from the establishment.

19 Investigator Ruiz entered and observed the disc
20 jockey providing live entertainment by
21 manipulating a turntable and mixing music.

22 Ernesto Giron, the owner, provided the
23 establishment's ABC license to Investigator Ruiz
24 that showed that it lacked an entertainment
25 endorsement.

1 We also heard from Mr. Giron who
2 admitted that a disc jockey was present that
3 evening providing entertainment, that the
4 establishment still does not have an
5 entertainment endorsement.

6 The Government has therefore proven
7 this charge and the Notice to Show Cause and the
8 Government recommends that the board apply a
9 penalty consistent with DC Code Section 25-830.

10 Thank you.

11 CHAIRPERSON ANDERSON: Thank you, Mr.
12 Lui.

13 Mr. Giron, now you can wrap up your
14 case and now you can tell me -- tell the board
15 what it is you want the board to do, sir.

16 MR. GIRON: Yes, thank you.

17 Just the case to me is the way that
18 the investigators approached the whole situation
19 was wrong and the way that they omitted all the
20 information from the report only what was
21 convenient to them, it's wrong as well.

22 The DJ was there one day, one night
23 for New Year's Eve. The investigators they just
24 didn't want to -- they didn't approach the whole
25 situation properly. And I think that if I should

1 be punished for having a DJ one day out of the
2 whole years, probably two years from the moment
3 that I apply for an endorsement license and was
4 denied for one year -- for one day, I'm sorry. I
5 don't know, I think I should get a warning
6 because it has never happened after that. When
7 he showed up a couple of days later to
8 investigate there was no music. There was no DJ,
9 there was nothing there. And he -- it's in the
10 record as well on his report that he showed up
11 and he just told me that to sign it and that's
12 it. That's all I got to say.

13 CHAIRPERSON ANDERSON: All right.

14 Thank you, sir.

15 The record is now closed. Do the
16 parties wish to file Proposed Findings of Fact
17 and Conclusions of Law waive their right to do
18 so?

19 So, your purpose, Mr. Giron, do you
20 just want the board to make a determination on
21 the evidence that was presented today?

22 MR. GIRON: Yes.

23 CHAIRPERSON ANDERSON: All right. Mr.
24 Lui.

25 MR. GIRON: The Government waives.

1 CHAIRPERSON ANDERSON: All right. The
2 Board will issue a decision within 90 days. All
3 right. So hold on, please. Will issue a
4 decision within 90 days.

5 As Chairperson of the Alcoholic
6 Beverage Control Board for the District of
7 Columbia, in accordance with DC Official Code
8 Section 2574B openly enact and move that the ABC
9 Board hold a closed meeting for the purpose of
10 seeking legal advice from our counsel on Case
11 #20-CMP-00017, Churreria Madrid Restaurant,
12 License #60806. Pursuant to DC Official Code,
13 Section 2574B4 of the Open Meetings Act and
14 deliberate upon Case #20-CMP-00017, Churreria
15 Madrid Restaurant, License #60806 for the reasons
16 cited in DC Official Code Section 2574(b)(13) of
17 the Open Meetings Act. Is there a second?

18 MS. CROCKETT: Ms. Crockett seconds.

19 CHAIRPERSON ANDERSON: Ms. Crockett
20 seconds the motion.

21 I will now take a roll call vote on
22 the motion before us now that has been seconded.

23 Mr. Cato.

24 MR. CATO: Bobby Cato, I agree.

25 CHAIRPERSON ANDERSON: Ms. Crockett.

1 MEMBER CROCKETT: Rafi Crockett, I
2 agree.

3 CHAIRPERSON ANDERSON: Mr. Hansen.

4 MEMBER HANSEN: Jeni Hansen, I agree.

5 CHAIRPERSON ANDERSON: Mr. Grandis.

6 MR. GRANDIS: Edward Grandis, I agree.

7 CHAIRPERSON ANDERSON: And, Mr.
8 Anderson, I agree.

9 As it appears that a motion has
10 passed, 5-0-0. I hereby give notice that the ABC
11 Board will recess these proceedings to hold a
12 closed meeting in the ABC Board Conference Room
13 pursuant to Section 2574(b) of the Open Meetings
14 Act.

15 Thank the parties for their
16 presentations today. The Board will listen, look
17 at the statute and make a determination as per
18 the statute.

19 All right. So, thank you very much
20 and have a great day. Thank you.

21 (Whereupon, the above-entitled matter
22 went off the record at 3:23 p.m.)

23

24

25

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In the matter of: Churreria Madrid

Before: DCABRA

Date: 04-07-21

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