

DISTRICT OF COLUMBIA
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 ALCOHOLIC BEVERAGE CONTROL BOARD
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 MEETING

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 IN THE MATTER OF: :
 :
 Yohannes A. Woldemichael :
 t/a Capitol Fine Wine :
 and Spirits :
 415 H Street NE : Show Cause
 Retailer A - ANC 6C : Hearing
 License No. 82981 :
 Case #22-CMP-00010 :
 :
 (No ABC Manager on Duty) :
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Wednesday
 July 27, 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
 KEVIN LUTES, DC OAG
 INVESTIGATOR GEORGE GARCIA

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

2 10:41 a.m.

3 CHAIRPERSON ANDERSON: The next case
4 on our calendar is Case No. 22-CMP00010, Capitol
5 Fine Wine and Spirits, License No. 82981.

6 Ms. Fashbaugh, can you please elevate
7 the rights of the Government and licensee in this
8 case, please.

9 MS. FASHBAUGH: Please stand by.
10 George Garcia, your rights have been elevated.
11 Kevin Lutes, your rights have been elevated.
12 There is no licensee.

13 CHAIRPERSON ANDERSON: Good morning.

14 Mr. Lutes, good morning, sir. Have
15 you had any conversation with the licensee in
16 this case, sir?

17 MR. LUTES: Good morning, Mr.
18 Chairperson. So I have had conversation with the
19 licensee on May 5th where we discussed -- where
20 we discussed the OIC that was sent to the
21 licensee on April 22nd. However, the licensee
22 has not been in contact with me since despite
23 many calls.

24 CHAIRPERSON ANDERSON: Okay. Thank
25 you. All right. Good morning, everyone. So do

1 you have any idea what happened to the licensee?
2 Just a clarification. When was the last time you
3 had a conversation with the licensee, sir?

4 MR. LUTES: The last time I had a
5 conversation with the licensee was on May 5th and
6 this was the only time I actually had a
7 conversation with the licensee. However, I would
8 like to mention that I did speak to -- reach out
9 to the licensee via phone on July 12th.

10 CHAIRPERSON ANDERSON: All right.
11 Okay. Thank you.

12 Good morning. Can you please
13 introduce yourself for the record by spelling and
14 stating your name, sir, please.

15 MR. LUTES: Good morning, Mr.
16 Chairman. This is -- and members of the Board.
17 This is Assistant Attorney General Kevin Lutes,
18 K-E-V-I-N L-U-T-E-S.

19 CHAIRPERSON ANDERSON: Mr. Lutes, your
20 volume could use some correction. It's difficult
21 to hear. I can hear you but there is -- it's not
22 very clear. I'm trying to see what can be done.

23 MR. LUTES: Can you hear me now? I
24 just edited my audio settings a little bit.

25 CHAIRPERSON ANDERSON: Much better,

1 sir. Much better.

2 This matter was scheduled for a show
3 cause hearing today. The Government is able to
4 move forward without the licensee being here.

5 MR. LUTES: The District is prepared
6 to move forward.

7 CHAIRPERSON ANDERSON: Okay, good.
8 Pursuant to the D.C. Official Code Section 25447
9 the Board has the authority to proceed ex parte
10 where the licensee waives the hearing or fails to
11 appear without good cause and sufficient notice.

12 It's my understanding, I don't have
13 the date, but the licensee was properly served.
14 I don't have the date when the licensee was
15 served. Do you know? Do you have that
16 information, Mr. Lutes?

17 MR. LUTES: With the Board's
18 indulgence, Mr. Chairman, the licensee was served
19 on March 31st. He was served -- the service was
20 performed directly on the licensee, Mr. Yohannes
21 Woldemichael.

22 CHAIRPERSON ANDERSON: Thank you. All
23 right. Seeing no licensee here today and having
24 no good and sufficient cause to extend this
25 hearing, the Board will proceed with the show

1 cause hearing.

2 Mr. Lutes, do you wish to have an
3 opening statement?

4 MR. LUTES: Yes, Mr. Chairperson.

5 Good morning, Mr. Chairperson and
6 members of the Board. This case is about the
7 licensee Yohannes Woldemichael operating under
8 the trade name Capitol Fine Wine and Spirits
9 failing to have an ABC manager present during the
10 hours of sale, service, and consumption of
11 alcohol in violation of DC Code Section 25701 and
12 23 DCMR Section 707.1.

13 The evidence will show that on the
14 afternoon of February 8, 2022, the Alcoholic
15 Beverage Regulation Administration Investigator
16 George Garcia arrived at and entered the
17 establishment. Investigator Garcia requested to
18 speak to an ABC manager or owner on duty only to
19 be informed that neither were present.

20 Next the evidence will show that
21 Investigator Garcia observed the sale of
22 alcoholic beverages during the establishment's
23 Board approved hours of sale and consumption of
24 alcohol.

25 By this hearing's conclusion the

1 District will approve by a preponderance of the
2 evidence that Capitol Fine and Wine and Spirits
3 failed to have an owner or Board approved
4 supervisor present on the premises during the
5 hours of sale, service, and consumption of
6 alcohol. Thank you.

7 CHAIRPERSON ANDERSON: Thank you, sir.
8 Does the Government have a witness they wish to
9 call?

10 MR. LUTES: Yes, Mr. Chairman. The
11 Government would like to call Investigator
12 Garcia.

13 CHAIRPERSON ANDERSON: Good morning,
14 Mr. Garcia. Can you raise your right hand,
15 please?
16 Whereupon,

17 GEORGE GARCIA
18 a witness, was called by Counsel for the
19 Government and, after having been first duly
20 sworn, assumed the witness stand and was examined
21 and testified as follows:

22 CHAIRPERSON ANDERSON: Your witness,
23 sir.

24 MR. LUTES: Thank you, Mr. Chairman.
25

1 DIRECT EXAMINATION

2 BY MR. LUTES:

3 Q Could you please -- will the witness
4 please state and spell your name for the record.

5 A George, G-E-O-R-G-E, Garcia, G-A-R-C-
6 I-A.

7 Q And, Mr. Garcia, where do you work?

8 A At the Alcoholic Beverage Regulation
9 Administration.

10 Q And is ABRA an appropriate acronym for
11 the Alcoholic Beverage Regulation Administration?

12 A Yes.

13 Q And what is your position at ABRA?

14 A I'm an investigator.

15 Q And how long have you worked as an
16 investigator for ABRA?

17 A Approximately three years now.

18 Q And what duty does that position
19 entail?

20 A We conduct inspections and
21 investigations of ABC licensed establishments
22 within the District of Columbia.

23 Q And what type of training have you
24 received in conducting investigations?

25 A On the job training, field training,

1 along with computerized training.

2 Q Are you familiar with the
3 establishment Capitol Fine Wine and Spirits?

4 A I am.

5 Q And how are you familiar with Capitol
6 Fine Wine and Spirits?

7 A I visited the establishment on
8 February 8th to conduct a regulatory inspection.

9 Q And following that regulatory
10 inspection, did you draft an investigative
11 report?

12 A I did.

13 MR. LUTES: With the Court's
14 indulgence -- sorry, the Board's indulgence the
15 District would like to share a document.

16 CHAIRPERSON ANDERSON: Ms. Fashbaugh,
17 can you please allow Mr. Lutes to share his
18 screen, please.

19 BY MR. LUTES:

20 Q Let me know if there is any difficulty
21 in viewing the document.

22 A Yes, sir.

23 Q So, Investigator Garcia, I'm showing
24 you a document that's marked as Plaintiff's
25 Exhibit 1.

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I'm going to scroll through the document. Can you please tell me what this is?

A My investigative report.

(Whereupon, the document referred to was marked as Plaintiff Exhibit No. 1 for identification.)

MR. LUTES: The Court's indulgence.

I'm going to be sure that I scroll through the entirety of the document.

BY MR. LUTES:

Q Is this a true and accurate reflection of the investigative report?

A It is.

Q Now, turning back to February 8, 2022, when did you enter the establishment? What time?

A At approximately 1:50 p.m.

Q And why did you visit the establishment?

A To conduct a regulatory inspection.

Q And what happened when you arrived at the establishment?

A I identified myself to a gentleman behind the bar who was -- I'm sorry, not behind the bar, behind the cashier's who seemed to be an

1 employee.

2

3 Q And did the gentleman give you his
4 name?

5 A Yeah. He is Mr. Dereje Getachew.

6 Q So you entered the establishment and
7 you spoke with Mr. Getachew. What did you ask
8 him?

9 A I asked him if there was an ABC
10 manager present at the establishment at that
11 moment.

12 Q And what did Mr. Getachew respond?

13 A He replied that he was the person in
14 charge at the moment and that the owner had
15 stepped out and should return shortly.

16 Q And what did you tell Mr. Getachew
17 next?

18 A I advised him that I would be
19 conducting a regulatory inspection if he was able
20 to get the owner or ABC manager at the
21 establishment.

22 Q And did Mr. Getachew attempt to
23 contact the owner of the establishment?

24 A He did.

25 Q And what did Mr. Getachew say?

1 A Mr. Getachew said that the owner
2 should be there in about 10 minutes.

3
4 Q And did the owner ever arrive during
5 the regulatory inspection?

6 A No, he did not.

7 Q While you were in the establishment,
8 did you observe any customers?

9 A Yes, two.

10 Q And could you tell me what they were
11 doing?

12 A Purchasing alcohol.

13 Q And did you take any pictures of the
14 sale of alcohol?

15 A I did.

16 MR. LUTES: With the Board's
17 indulgence I'm going to direct Mr. Garcia --

18 BY MR. LUTES:

19 Q Mr. Garcia, I would like to direct you
20 to what's marked as Government Exhibit 5 as part
21 of your case report. Can you please tell me what
22 this is?

23 A A picture of a patron purchasing
24 alcohol.

25 Q And how did you take this photo?

1 A With my government-issued phone.

2 Q And then next I'm going to direct you
3 to what is marked as Government Exhibit 7 of your
4 case report. Can you please tell me what this
5 is?

6 A That's a receipt of the alcohol
7 purchase.

8 Q And can you please tell me how you
9 took this picture?

10 A On my government-issued phone.

11 Q And can you please read the date and
12 time at which this receipt was issued.

13 A You said the date and time? February
14 8, 2020 at 2:00 p.m.

15 Q And next I'm going to direct you to
16 what is marked as Government Exhibit 1 that is
17 part of your case report. Can you please tell me
18 what this is?

19 A The establishment's ABC license.

20 Q And can you please tell me, according
21 to this license, when can the establishment sell
22 alcohol?

23 A Between the hours of 9:00 a.m. and
24 12:00 a.m.

25 Q And you visited the establishment

1 during the hours of the sale of alcohol?

2 A Correct.

3 Q And you witnessed -- and you observed
4 customers purchasing alcohol during your
5 regulatory visit.

6 A Correct.

7 MR. LUTES: And now turning back to
8 what is marked as Plaintiff's Exhibit 1, Mr.
9 Chairperson, I understand that under District law
10 this is already part of the record. However, I
11 would move to confirm the case report as part of
12 the record.

13 CHAIRPERSON ANDERSON: So moved, Mr.
14 Lutes.

15 (Whereupon, the document marked as
16 Plaintiff Exhibit No. 1 for
17 identification was received into
18 evidence.)

19 MR. LUTES: Thank you, Mr.

20 Chairperson.

21 Investigator Garcia, thank you.

22 No further questions, Mr. Chairman.

23 Thank you.

24 CHAIRPERSON ANDERSON: Thank you.

25 Mr. Garcia, can you please spell the

1 name of the person that you said that you spoke
2 to that morning, sir?

3 MR. GARCIA: Sure. His first name is
4 Dereje, D-E-R-E-J-E. Last name Getachew, G-E-T-
5 A-C-H-E-W.

6 CHAIRPERSON ANDERSON: Thank you.

7 Any questions by any Board members of
8 the investigator? No questions by the Board
9 members.

10 Thank you, Mr. Garcia for your
11 testimony today. Have a great day.

12 MR. GARCIA: Thank you.

13 CHAIRPERSON ANDERSON: Mr. Lutes, do
14 you have another witness?

15 MR. LUTES: No further witnesses, Mr.
16 Chairman.

17 CHAIRPERSON ANDERSON: The Government
18 may rests?

19 MR. LUTES: With the Board's
20 indulgence, the District rests and would like to
21 present its closing arguments.

22 CHAIRPERSON ANDERSON: Go ahead, sir,
23 with the closing arguments.

24 MR. LUTES: Mr. Chairman and members
25 of the Board, much like a ship cannot leave port

1 without a captain, an ABRA licensed establishment
2 cannot serve alcohol without an ABC manager or
3 owner present. Without management the
4 establishment would be lost in times of chaos.
5 For that reason, the District has proven its
6 claims today.

7 You have heard these irrefutable
8 facts. First, that on February 8, 2022,
9 Investigator Garcia arrived at Capitol Fine Wine
10 and Liquors during the licensed hours of
11 operation.

12 Secondly, that Investigator Garcia
13 asked an employee to speak to an ABC manager or
14 owner only to be told that an ABC manager or
15 owner was not on the premises at that time.

16 Three, and lastly, Investigator Garcia
17 observed employees of that establishment selling
18 alcoholic beverages to customers.

19 District law requires an ABC manager
20 or owner to be present during all hours of sale,
21 service, and consumption of alcohol. Throughout
22 Investigator Garcia's visit neither an ABC
23 manager nor owner were present.

24 Thus, the Government has proven by a
25 preponderance of the evidence that the license

1 failed to have an owner or supervisor present on
2 the premises during the hours of sale, service,
3 and consumption of alcohol in violation of DC
4 Code Section 25701 and 23 DCMR Section 707.1.

5 The Government request the Board to
6 right this ship and recommends that the Board
7 apply the appropriate penalty. Thank you.

8 CHAIRPERSON ANDERSON: Thank you, Mr.
9 Lutes.

10 The record is now closed. The Board
11 will issue a decision within 90 days. Hold on
12 one minute, please.

13 As Chairperson of the Alcoholic
14 Beverage Control Board for the District of
15 Columbia in accordance with DC Office Code 2575
16 of the Open Meetings Act, I move that the ABC
17 Board hold a closed meeting for the purpose of
18 seeking legal advice from our counsel on Case No.
19 22-CMP-00010, Capitol Fine Wine and Spirits,
20 pursuant to DC Official Code Section
21 2575(b)(4)(a) of the Open Meetings Act and
22 deliberate on Case No. 22-CMP-00010, Capitol Fine
23 Wine and Spirits, for the reasons cited in DC
24 Official Code Section 2575(b)(13) of the Open
25 Meetings Act.

1 Is there a second?

2 MEMBER SHORT: Mr. Short. I second.

3 CHAIRPERSON ANDERSON: Mr. Short has
4 seconded the motion. I will now take a roll call
5 vote on the motion now that it has been seconded.

6 Mr. Short.

7 MEMBER SHORT: Mr. Short. I agree.

8 CHAIRPERSON ANDERSON: Mr. Cato.

9 MEMBER CATO: Bobby Cato. I agree.

10 CHAIRPERSON ANDERSON: Ms. Crockett.

11 MEMBER CROCKETT: Rafi Crockett. I
12 agree.

13 CHAIRPERSON ANDERSON: Ms. Hansen.

14 MEMBER HANSEN: Jeni Hansen. I agree.

15 CHAIRPERSON ANDERSON: Mr. Grandis.

16 MEMBER GRANDIS: Ed Grandis. I agree.

17 CHAIRPERSON ANDERSON: And Mr.

18 Anderson. I agree.

19 As it appears that the motion has
20 passed, I hereby give notice that the ABC Board
21 will recess to hold a closed meeting pursuant to
22 Section 2575 of the Open Meetings Act.

23 Thank you for being here today, Mr.

24 Lutes. You have a great day. The Board will

25 issue a decision within 90 days. Have a great

1 day. Thank you very much.

2 MR. LUTES: You do the same.

3 CHAIRPERSON ANDERSON: And we're at
4 the end of our morning calendar.

5 (Whereupon, the above-entitled matter went
6 off the record at 11:00 a.m.)

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Before: DC ABRA

Date: 07-27-22

Place: teleconference

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Court Reporter

NEAL R. GROSS

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