

DISTRICT OF COLUMBIA  
+ + + + +  
ALCOHOLIC BEVERAGE AND CANNABIS BOARD  
+ + + + +  
MEETING

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IN THE MATTER OF:                   :  
  :  
Total Cafe, & Cycling,               :  
LLC, t/a Emissary                    :  
2032 P Street NW                    :  
Retailer CR - ANC 2B                :  
License #101155                      :  
Case #24-CIT-00055                  :  
  :  
(Failed to File                       :  
Quarterly Statement)                :  
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Wednesday  
September 18, 2024

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

PRESENT:

DONOVAN W. ANDERSON, Chairperson  
SILAS GRANT, JR., Member  
JAMES SHORT, JR., Member

ALSO PRESENT:

EARL JONES, DC ABCA Investigator  
ALYCIA HOGENMILLER, DC OAG  
JOSE ORELLANA, DC ABCA Staff

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

2 1:37 p.m.

3 CHAIRPERSON ANDERSON: I just want to  
4 advise the parties that we have a protest hearing  
5 for Sahara Market and, however, I'm going to do a  
6 show cause hearing prior to. And so although  
7 both cases are scheduled to start at 1:30, I'm  
8 going the Emissary first. Depending how long  
9 that case is, I'm hoping that that case doesn't  
10 last longer than an hour, but I do not know. I  
11 will -- so we're talking about maybe, depending  
12 on what does on in our first case, that we might  
13 not start the protest hearing until 2:00, 2:30.  
14 I don't know yet how long that case is going to  
15 be, but I just wanted to put the people -- the  
16 folks on notice for the protest hearing.

17 So the first case I'll be calling this  
18 afternoon is Case Number 24-CIT-00055, the  
19 Emissary, License Number 10155. Good afternoon,  
20 Mr. Orellana. Can you please elevate the rights  
21 of the parties in the Emissary case?

22 MR. ORELLANA: Sure thing. Alycia  
23 Hogenmiller, your access has been elevated.  
24 Supervisory Investigator Earl Jones, your access  
25 has been elevated. And I do not see the

1 licensee, Chairman.

2 CHAIRPERSON ANDERSON: Is there anyone  
3 online for the Emissary? Is there anyone online  
4 for the Emissary, can you please identify  
5 yourself for the record?

6 MR. ORELLANA: We do have call in  
7 users, I'll elevate just to see.

8 CHAIRPERSON ANDERSON: There's --  
9 well, no. We have a protest hearing so I don't  
10 necessarily want to --

11 MR. ORELLANA: Okay.

12 CHAIRPERSON ANDERSON: We have a  
13 protest hearing and so maybe some of those are,  
14 but if there's anyone here for the Emissary, I  
15 need you to identify yourself so we can elevate  
16 you.

17 All right. Ms. Hogenmiller, can you  
18 -- good afternoon. Can you identify yourself for  
19 the record, please?

20 MS. HOGENMILLER: Assistant Attorney  
21 General Alycia Hogenmiller, A-L-Y-C-I-A, H-O-G-E-  
22 N-M-I-L-L-E-R on behalf of the Government.

23 CHAIRPERSON ANDERSON: And Ms.  
24 Hogenmiller, if this matter goes to a hearing, do  
25 you have a witness you wish to call this

1 afternoon?

2 MS. HOGENMILLER: Yes. We would call  
3 Supervisory Investigator Earl Jones.

4 CHAIRPERSON ANDERSON: Mr. Jones, can  
5 you identify yourself for the record, please?

6 VICE CHAIR HEWLETT: Sure thing. I'm  
7 Supervisory Investigator Earl Jones, first name  
8 E-A-R-L, last name Jones, J-O-N-E-S.

9 CHAIRPERSON ANDERSON: Ms.  
10 Hogenmiller, I see that the licensee is not here.  
11 Do you know whether or not the license plans to  
12 be here today?

13 MS. HOGENMILLER: No. I have no heard  
14 from the licensee.

15 CHAIRPERSON ANDERSON: Okay. All  
16 right. Does the Government prefer to move  
17 forward?

18 MS. HOGENMILLER: Yes.

19 CHAIRPERSON ANDERSON: All right.  
20 Pursuant to DC Official Code Section 25-447(E),  
21 the Board has the authority to proceed ex parte  
22 where the licensee waives the hearing or fails to  
23 appear unless a hearing is extended for good and  
24 sufficient cause.

25 The Board's reflect that the licensee

1 was properly served and seeing no licensee here  
2 today and having no good and sufficient cause to  
3 extend this hearing, the Board will proceed with  
4 the show cause hearing ex parte.

5 Ms. Hogenmiller, do you wish to make  
6 an opening statement, ma'am?

7 MS. HOGENMILLER: Yes.

8 CHAIRPERSON ANDERSON: Go ahead,  
9 ma'am.

10 MS. HOGENMILLER: May it please the  
11 Board? This case today relates to the sole  
12 charge of Emissary failing to file its quarterly  
13 statement. During the hearing, you'll hear from  
14 ABCA Supervisory Investigator Early Jones about  
15 how Emissary failed to file the quarterly  
16 statement by the deadline. And at the end of the  
17 hearing, the Government will ask that you apply a  
18 penalty consistent with the statute. Thank you.

19 CHAIRPERSON ANDERSON: Thank you. All  
20 right. Do you have a witness you wish to call?

21 MS. HOGENMILLER: Yes. The Government  
22 would like to call Supervisory Investigator Earl  
23 Jones.

24 CHAIRPERSON ANDERSON: Mr. Jones, can  
25 you raise your right hand, please? Do you swear

1 or affirm to tell the truth and nothing but the  
2 truth?

3 INVESTIGATOR JONES: I do.

4 CHAIRPERSON ANDERSON: Your witness,  
5 ma'am.

6 MS. HOGENMILLER: Thank you. Would  
7 you please introduce yourself to the Board today?

8 INVESTIGATOR JONES: Yes. Again, my  
9 name is Supervisory Investigator Earl Jones,  
10 first name E-A-R-L, last name Jones, J-O-N-E-S.

11 MS. HOGENMILLER: Where are you  
12 currently employed?

13 INVESTIGATOR JONES: I am currently  
14 employed with the Alcoholic Beverage and Cannabis  
15 Administration.

16 MS. HOGENMILLER: And can I refer to  
17 the Alcoholic Beverage and Cannabis  
18 Administration as ABCA?

19 INVESTIGATOR JONES: Yes, ma'am.

20 MS. HOGENMILLER: What is your  
21 position with ABCA?

22 INVESTIGATOR JONES: I am the night  
23 shift supervisory investigator.

24 MS. HOGENMILLER: How long have you  
25 been a supervisory investigator?

1 INVESTIGATOR JONES: For the last  
2 year.

3 MS. HOGENMILLER: What are your duties  
4 as a supervisory investigator?

5 INVESTIGATOR JONES: I am the  
6 supervisor for a team of investigators that  
7 investigate -- that conduct investigations and  
8 inspections of licensed ABC establishments within  
9 the District of Columbia as well as other  
10 assigned administrative duties.

11 MS. HOGENMILLER: With your  
12 investigators, what do you once they conduct the  
13 investigation, what's your role?

14 INVESTIGATOR JONES: My role once --  
15 I'm there to assist if they need assistance while  
16 in the field, if there's regulations or -- that  
17 they're you unclear about, whether in the field  
18 or if they are in the midst of conducting  
19 investigation or need assistance, I'm there to  
20 help them with recognizing whether it's a  
21 violation or not. Also, once they conclude  
22 writing their reports, I have to go over the  
23 reports to ensure that the information is correct  
24 as well as other duties that they are assigned  
25 to.

1 MS. HOGENMILLER: So now let's turn to  
2 the case we're here for today. Are you familiar  
3 with the establishment located at 2032 P Street  
4 NW, Washington, D.C., Emissary?

5 INVESTIGATOR JONES: Yes, I am.

6 MS. HOGENMILLER: How are you familiar  
7 with this establishment?

8 INVESTIGATOR JONES: I'm only familiar  
9 with the establishment through one of my ex-  
10 investigators that worked for the agency when she  
11 came upon this case regarding Emissary.

12 MS. HOGENMILLER: And what was the  
13 violation that she discovered in this case?

14 INVESTIGATOR JONES: The violation was  
15 failure to file their quarterly statement for the  
16 third quarter of 2023.

17 MS. HOGENMILLER: How often are  
18 establishments required to file quarterly  
19 statements?

20 INVESTIGATOR JONES: Every three  
21 months.

22 MS. HOGENMILLER: How is the deadline  
23 calculated for when an establishment needs to  
24 file the quarterly statement?

25 INVESTIGATOR JONES: The way that it's



1 calculated is since the violation is calculated  
2 everything three months, we also give them a  
3 reprieve for a -- a grace period of 30 days. So  
4 ultimately, each establishment that is a hotel or  
5 a restaurant that has to file these quarterly  
6 statements are allowed pretty much four months to  
7 file their quarterly statement.

8 MS. HOGENMILLER: Based on that  
9 calculation, what was the deadline for the  
10 establishment to file the quarterly statement for  
11 the period of July to September 2023?

12 INVESTIGATOR JONES: So the initial  
13 deadline was September 30th with an ultimate  
14 deadline of October 31st.

15 MS. HOGENMILLER: Did Emissary file a  
16 quarterly statement for that period by the  
17 deadline of October 31, 2023?

18 INVESTIGATOR JONES: No, ma'am. And  
19 I just checked the history again prior to us  
20 getting on, and I see that they still haven't  
21 filed or haven't -- haven't paid I should say.

22 MS. HOGENMILLER: Did they end up  
23 filing a quarterly statement?

24 INVESTIGATOR JONES: Not that I know  
25 of ma'am.

1 MS. HOGENMILLER: Is part of your job  
2 as a supervisory investigator to review case  
3 reports written by your subordinates?

4 INVESTIGATOR JONES: Yes, ma'am.

5 MS. HOGENMILLER: Was a case report  
6 written for this violation?

7 INVESTIGATOR JONES: Yes, it was.

8 MS. HOGENMILLER: I'm going to show  
9 you -- oh, Chairperson Anderson, if I could share  
10 my screen?

11 CHAIRPERSON ANDERSON: Mr. Orellana,  
12 can you allow the Government to share -- go  
13 ahead.

14 MS. HOGENMILLER: Thank you. I'm now  
15 going to show you what the Government has marked  
16 as Exhibit A for identification.

17 (Whereupon, the above-referred to  
18 document was marked as Government Exhibit A for  
19 identification.)

20 MS. HOGENMILLER: Can you see my  
21 screen? Do you recognize this document?

22 INVESTIGATOR JONES: Yes, I do.

23 MS. HOGENMILLER: And let me know if  
24 at any point you need me to zoom in. What is  
25 this document?

1                   INVESTIGATOR JONES: That is the case  
2 report that was written by the previous  
3 investigator, Kantis Taylor (phonetic).

4                   MS. HOGENMILLER: Want to go to now  
5 the second page. I'm going to scroll in to the  
6 bottom. Did you review this report during the  
7 approval process?

8                   INVESTIGATOR JONES: Yes, I did.

9                   MS. HOGENMILLER: Mr. Chairperson, the  
10 District would like to note for the record that  
11 Government Exhibit A, the case report for  
12 Emissary is already in evidence pursuant to 23  
13 DCMR 1713.10.

14                  CHAIRPERSON ANDERSON: You are correct  
15 and it is a part of the Board's records, yes.

16                  MS. HOGENMILLER: Thank you. Now we  
17 are going to turn to the first exhibit, Exhibit  
18 1. What is this document?

19                  INVESTIGATOR JONES: That's a copy of  
20 the citation that was issued to Emissary in the  
21 amount of \$250.00 for the violation of failure to  
22 file their quarterly statement for the third  
23 quarter of 2023.

24                  MS. HOGENMILLER: Did Emissary pay the  
25 citation?

1 INVESTIGATOR JONES: No, ma'am.

2 MS. HOGENMILLER: Thank you,  
3 Supervisory Investigator Jones. I have no more  
4 questions.

5 CHAIRPERSON ANDERSON: Any questions  
6 by any Board members? Mr. Jones, just a quick  
7 question. I don't know if the case report -- and  
8 I have it in front of me -- does the case report  
9 have an investigative history regarding previous  
10 violations regarding quarterly statements,  
11 failure to file quarterly statements?

12 INVESTIGATOR JONES: Yes, it does,  
13 sir.

14 CHAIRPERSON ANDERSON: And what is  
15 that, sir?

16 INVESTIGATOR JONES: Well, what I want  
17 to do while I have you on because -- well, I can  
18 give you what it was at that time.

19 CHAIRPERSON ANDERSON: So what -- so  
20 I need you to provide me the document that's  
21 already in evidence.

22 INVESTIGATOR JONES: Okay. So they  
23 have a failure to file quarterly statement  
24 5/1/23. That was issued as a citation. However,  
25 that was a warning. They had an additional for

1 8/23.

2 CHAIRPERSON ANDERSON: You're saying  
3 that -- what happened 8/23?

4 INVESTIGATOR JONES: That was an  
5 additional and that was a \$250 fine which was  
6 paid on 1/17/24.

7 CHAIRPERSON ANDERSON: So that's the  
8 extent of the investigative history regarding  
9 quarterly statements violations?

10 INVESTIGATOR JONES: That is correct,  
11 sir.

12 CHAIRPERSON ANDERSON: Okay. All  
13 right. Thank you. All right. I don't have any  
14 further questions, and it doesn't appear that any  
15 Board members have any questions. Do you have  
16 any redirect, Ms. Hogenmiller?

17 MS. HOGENMILLER: No, Chairperson.

18 CHAIRPERSON ANDERSON: Thank you.  
19 Supervisory Investigator Jones, thank you for  
20 your testimony today. You're free to go.

21 INVESTIGATOR JONES: Thank you.

22 MS. HOGENMILLER: Thank you.

23 CHAIRPERSON ANDERSON: Do you wish to  
24 make a closing statement, ma'am?

25 MS. HOGENMILLER: Yes.

1 CHAIRPERSON ANDERSON: Go ahead.

2 MS. HOGENMILLER: May it please the  
3 Board? This case is straightforward. DC Code  
4 Section 25-113 requires that licensees file a  
5 quarterly statement with the Board. 23 DCMR 1207  
6 requires that licensees file the quarterly  
7 statement 30 days after the end of the quarter,  
8 and Emissary failed to do just that.

9 Today the Government presented  
10 evidence in support of its singular charge,  
11 failure to file a quarterly statement. ABCA  
12 Supervisory Investigator Earl Jones testified  
13 that Emissary failed to file its quarterly  
14 statement for the July to September 2023 time  
15 period.

16 The Government asks that you find in  
17 its favor and apply a penalty consistent with the  
18 statute. Thank you.

19 CHAIRPERSON ANDERSON: Thank you,  
20 ma'am. All right. The case is now closed and  
21 I'll just close this matter out. All right. As  
22 Chairperson of the Alcoholic Beverage and  
23 Cannabis Board for the District of Columbia, and  
24 in accordance with DC Official Code Section 2-575  
25 of the Open Meetings Act, I move that the ABC

1 Board hold a closed meeting for the purpose of  
2 seeking legal advice from our counsel on Case  
3 Number 24-CIT-00055, the Emissary, for the  
4 reasons -- pursuant to DC Official Code Section  
5 2-575(b)(4)(a) of the Open Meetings Act and  
6 deliberating upon Case Number 24-CIT-00055, the  
7 Emissary, for the reasons cited in DC Official  
8 Code Section 2-575(B)(13) of the Open Meetings  
9 Act. Is there a second?

10 MEMBER GRANT: Second the motion.

11 CHAIRPERSON ANDERSON: Mr. Grant has  
12 second the motion. We'll have a roll call vote.  
13 Mr. Short?

14 MEMBER SHORT: Mr. Short. I agree.

15 CHAIRPERSON ANDERSON: Mr. Grant?

16 MEMBER GRANT: Mr. Grant. I agree.

17 CHAIRPERSON ANDERSON: Mr. Anderson.

18 I agree. As it appears the motion has passed, I  
19 hereby give notice that the ABC Board will recess  
20 these proceedings to hold a closed meeting  
21 pursuant to Section 2-575 of the Open Meetings  
22 Act. Thank you very much for your presentation,  
23 Ms. Hogenmiller. The Board will issue a decision  
24 within 75 days. Thank you. Have a great day,  
25 ma'am.

1 MS. HOGENMILLER: Thank you, Board  
2 members.

3 CHAIRPERSON ANDERSON: Bye-bye.

4 (Whereupon, the above-entitled matter  
5 went off the record at 1:51 p.m.)  
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Before: DC ABCA

Date: 09-18-24

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