

DISTRICT OF COLUMBIA
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 ALCOHOLIC BEVERAGE CONTROL BOARD
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 MEETING

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 IN THE MATTER OF: :
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 Partners at 723 8th St :
 SE, LLC :
 t/a The Ugly Mug Dining :
 Saloon : Show Cause
 723 8th Street SE : Hearing
 Retailer CR - ANC 6B :
 License #71793 :
 Case #20-AUD-00017 :
 :
 Failed to File Quarterly :
 Statement) :
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Wednesday
 September 29, 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
 JAMES SHORT, JR., Member

ALSO PRESENT:

SIMONE ANDREWS, DC ABRA Staff
 MONICA CLARK, DC ABRA Compliance Analyst
 GAYNOR JABLONSKI, Licensee
 STEPHEN ORTIZ, DC OAG

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

2 1:37 p.m.

3 CHAIRPERSON ANDERSON: The next case
4 on our calendar is case number 20-AUD-00017, the
5 Ugly Mug Dining Saloon, license number 719 -- I'm
6 sorry -- 71793. Ms. Andrews, can you please
7 elevate the rights of the parties in this case
8 please?

9 MS. ANDREWS: Sure, standby. Mr.
10 Jablonski, your rights have been elevated.

11 MR. JABLONSKI: I am here.

12 MS. ANDREWS: Mr. Ortiz, your rights
13 have been elevated. Ms. Clark, your rights have
14 been elevated. That's all Mr. Chair.

15 CHAIRPERSON ANDERSON: Thank you. All
16 right, good afternoon again everyone. I would
17 like everyone to introduce themselves for the
18 record, I would also like you to spell, and state
19 your name, and let's start with Mr. Ortiz.

20 MR. ORTIZ: Good afternoon Mr.
21 Chairperson, and all board members. Stephen
22 Ortiz on behalf of the District of Columbia.
23 That's S-T-E-P-H-E-N O-R-T-I-Z.

24 CHAIRPERSON ANDERSON: Thank you. Mr.
25 Jablonski, can you please spell, and state your

1 name for the record, and your relationship to
2 this establishment sir?

3 MR. JABLONSKI: Absolutely. Good
4 afternoon everyone, my name is Gaynor Jablonski,
5 spelled G-A-Y-N-O-R, last name is J-A-B as in
6 boy, L-O-N-S-K-I, I'm the owner of the
7 establishment.

8 CHAIRPERSON ANDERSON: Good afternoon,
9 one more time, can you please pronounce your last
10 name for me?

11 MR. JABLONSKI: Sure, J-A-B --

12 CHAIRPERSON ANDERSON: No, pronounce
13 it.

14 MR. JABLONSKI: Pronounce it,
15 Jablonski.

16 CHAIRPERSON ANDERSON: Jablonski, good
17 afternoon sir, thank you. All right, Ms. Clark,
18 can you please spell, and state your name for the
19 record? You're on mute ma'am. You're on mute.

20 MS. CLARK: It's Monica Clark, M-O-N-
21 I-C-A C-L-A-R-K. I'm a compliance analyst with
22 ABRA.

23 CHAIRPERSON ANDERSON: Good afternoon,
24 good afternoon. Mr. Ortiz, are there any
25 preliminary matters in this case?

1 MR. ORTIZ: The district does not have
2 any preliminary matters to address at this time.

3 CHAIRPERSON ANDERSON: All right, Mr.
4 Jablonski, do you have any preliminary matters
5 that you want to bring to the board's attention?
6 Not substantive, just preliminary. You're on
7 mute sir.

8 MR. JABLONSKI: Excuse me, no.

9 CHAIRPERSON ANDERSON: All right,
10 thank you. All right, so this is a show cause
11 hearing, Mr. Ortiz, do you wish to make an
12 opening statement?

13 MR. ORTIZ: Yes, I would like to make
14 a brief opening statement.

15 CHAIRPERSON ANDERSON: Go ahead sir,
16 thank you.

17 MR. ORTIZ: All right, thank you.
18 Good afternoon board members, we are here today
19 in the show cause matter of the Ugly Mug Dining
20 Saloon, Valor Brew Pub located at 723 8th Street
21 SE, in Washington D.C. The show cause notice
22 issued in this matter concerns a charge that the
23 licensee failed to file with the board, the
24 required quarterly statement reporting for the
25 proceeding quarter. Gross receipts for the

1 establishment, gross receipts for sales of
2 alcoholic beverages, gross receipts for food
3 sales, total expenses for the purchase of food,
4 and alcoholic beverages.

5 And the expenses for purchases of
6 food, and alcoholic beverages separately in
7 violation of D.C. code section 25-113B2A. The
8 evidence will show that the licensee failed to
9 file the quarterly statement for the quarter
10 ending December 2019, due to be filed by January
11 30th, 2020. Thank you.

12 CHAIRPERSON ANDERSON: Thank you Mr.
13 Ortiz. Mr. Jablonski, do you wish to make an
14 opening statement now, or you can make one when
15 you present your case.

16 MR. JABLONSKI: I only have one thing
17 to say chairman. I believe the statement that --
18 the quarterly file that he's saying that I filed
19 late wasn't 2019, but was the fourth quarter of
20 2020.

21 CHAIRPERSON ANDERSON: All right.
22 Maybe we can get some clarification Mr. Ortiz,
23 this is a quarterly statement for what period of
24 time that this case is about?

25 MR. ORTIZ: Court's indulgence, I mean

1 it is court's indulgence. All right, so this is
2 -- the notice of statute show cause hearing that
3 was drafted, and issued to the licensee stated
4 that he failed to commonly file the quarterly
5 standard for the quarter ending December 31st,
6 2019. So, this is for the fourth quarter of
7 2019, is what the show cause notice was stated,
8 and provided to the licensee.

9 CHAIRPERSON ANDERSON: Now, if there's
10 some misunderstanding between the parties, we can
11 go off record, and then the parties can talk to
12 get the dates, because I want to make sure that
13 if we have this hearing today, we're talking
14 about the same period. And the periods that the
15 licensee was saying is a different period. So,
16 Mr. Jablonski, as far as you are concerned, is it
17 the same period, or are you talking about a
18 different period sir?

19 MR. JABLONSKI: I was under the
20 impression that this was about fourth quarter
21 2020.

22 CHAIRPERSON ANDERSON: Do we need to
23 go off record so the parties can have a
24 conversation to be on the same page? Because it
25 doesn't make sense for us to move forward with

1 the hearing if the parties are not -- the factual
2 situations are not the same. That's up to you, I
3 can go off the record, so you can talk, so the
4 parties can talk to talk about exactly what
5 period is being litigated today.

6 MR. ORTIZ: Yes, the district does not
7 oppose a brief recess so that I can communicate
8 with the licensee, if the licensee wishes to
9 communicate with the district at this time.

10 CHAIRPERSON ANDERSON: Would you want
11 -- is this something that you're open to Mr.
12 Jablonski? I'm not asking the parties to settle
13 --

14 MR. JABLONSKI: Yeah, I'm fine with
15 that sir.

16 CHAIRPERSON ANDERSON: All right, so
17 Mr. Ortiz, do you have -- are you able to -- do
18 you have his contact information? Mr. Jablonski,
19 if you can put your -- if Mr. Ortiz doesn't have
20 your contact information, can you put it in the
21 chat so he can contact you?

22 MR. JABLONSKI: Absolutely.

23 MR. ORTIZ: I think I have a cell
24 phone number starting with the 703 area code that
25 I can contact.

1 MR. JABLONSKI: Yes, that is the
2 correct number.

3 MR. ORTIZ: All right, I do have the
4 contact information, so I'll --

5 CHAIRPERSON ANDERSON: All right, so
6 we'll do, I'll try to -- I'll go off record,
7 maybe say about 15 minutes, or you can contact us
8 to let us know when you are ready. So, when you
9 are ready to resume, okay?

10 MR. JABLONSKI: Okay, thank you.

11 CHAIRPERSON ANDERSON: All right, so
12 we are off the record, and I will then ask all
13 board members to return to executive session for
14 further development.

15 (Whereupon, the above-entitled matter
16 went off the record at 1:45 p.m. and resumed at
17 2:02 p.m.)

18 CHAIRPERSON ANDERSON: Okay, we're
19 back on the record. All right, Mr. Ortiz, we had
20 taken a short break, because there was a factual
21 miscommunication between the parties. Were the
22 parties able to speak, and address those, and
23 clear that issue up?

24 MR. ORTIZ: Yes Mr. Chairperson, the
25 parties were able to speak, and clear that issue

1 up. The parties are going to proceed with the
2 show cause hearing.

3 CHAIRPERSON ANDERSON: All right,
4 sure. So, Mr. -- I know I'd ask Mr. --

5 MR. JABLONSKI: Jablonski.

6 CHAIRPERSON ANDERSON: I wrote it
7 down, and you know I wrote it down, and I'm going
8 through my mind, I'm looking at it, it doesn't
9 show up on the screen, so I'm looking at a piece
10 of paper that I wrote your name down, and I'm
11 like okay.

12 MR. JABLONSKI: Perfectly fine.

13 CHAIRPERSON ANDERSON: Jablonski. All
14 right, I know I'd asked if you want to make an
15 opening statement, you just wanted to do some
16 clarification, do you want to do a further
17 opening statement, or do you want to wait until
18 you present your case to do an opening statement?

19 MR. JABLONSKI: No, I can do an
20 opening statement now that I understand.

21 CHAIRPERSON ANDERSON: Okay, go ahead
22 sir.

23 MR. JABLONSKI: So, there was some
24 confusion about what date this was because of
25 when the violation, when ABRA notified me of this

1 violation, which happened late into the pandemic.
2 The only thing I would say -- this is my
3 statement -- is that I'm not sure, how is it that
4 the city under the emergency powers have the
5 ability to shut me down, and not let me operate
6 my business, and basically make me crawl through
7 it, and then come back afterwards for something
8 frankly as trivial as a report that wasn't filed.

9 I don't know how many other ways
10 restaurants can get, frankly, screwed in the last
11 year, and a half. I've been open, shut down,
12 open, shut down, can't find labor, and it is what
13 it is. I'm sure the form wasn't filed, I thought
14 they were talking about the fourth quarter form,
15 which was filed in 2020.

16 CHAIRPERSON ANDERSON: Hold on Mr. --
17 this is all mixed, you're telling me about your
18 case. Now, what you're saying, I can put you
19 under oath, and have you testify later on, and
20 then you can have a closing statement, and then
21 the statement that you're making right now, you
22 can make that in closing, because you're trying
23 to convince the board which way they should vote
24 to make a determination.

25 This is just the opening, it's

1 basically just to say what your case is about,
2 and what is it your plan to prove, not
3 necessarily what the arguments are. So, what
4 I'll do is I'll give you another opportunity once
5 the district --

6 MR. JABLONSKI: Then I don't have an
7 opening statement, I'll wait.

8 CHAIRPERSON ANDERSON: All right,
9 fine. So, once the government has presented its
10 case, you can either make another opening
11 statement, or you can present your case, and what
12 I will do at that juncture, is that I'll swear
13 you in, and then you can state whatever you want
14 to state, okay?

15 MR. JABLONSKI: Fair enough.

16 CHAIRPERSON ANDERSON: All right. Mr.
17 Ortiz, do you have a witness you would like to
18 call?

19 MR. ORTIZ: Yes, the district would
20 like to call Monica Clark as its first, and only
21 witness.

22 CHAIRPERSON ANDERSON: Ms. Clark, can
23 you raise your right hand please? Do you swear,
24 or affirm to tell the truth, and nothing but the
25 truth?

1 MS. CLARK: I do.

2 WHEREUPON,

3 MONICA CLARK

4 was called for examination by Counsel for the
5 licensee, having been first duly sworn, assumed
6 the witness stand, was examined and testified as
7 follows:

8 CHAIRPERSON ANDERSON: All right,
9 thank you. Go ahead Mr. Ortiz.

10 MR. ORTIZ: Could you please state,
11 and spell your first, and last name for the
12 record?

13 MS. CLARK: My name is Monica Clark,
14 that's M-O-N-I-C-A C-L-A-R-K.

15 MR. ORTIZ: And where are you
16 currently employed?

17 MS. CLARK: I am employed at the
18 Alcoholic Beverage Regulation Administration.

19 CHAIRPERSON ANDERSON: Hold on one
20 minute please, I'm sorry to do this. Mr.
21 Jablonski, what I think that we can do if both
22 parties agree, the government stated that the
23 report was not filed?

24 MR. JABLONSKI: Yes, I'll agree to the
25 fact stated by the government.

1 CHAIRPERSON ANDERSON: All right, so
2 if we can have a stipulation on both sides that
3 the statement was not filed, then we can -- we
4 don't need to have testimony, and what both sides
5 can argue is the penalty. So, you then Mr. Ortiz
6 can just say what it is that the board should do,
7 and at that juncture, Mr. Jablonski, then the
8 statement that you were making before, you can
9 make that statement, and say to the board why the
10 board should not penalize you for the nonfiling.

11 If we have that agreement, then we can
12 dispense with testimony, and the government will
13 state since the report was not filed, what it is
14 that the board should do, and then you can ask
15 the board for leniency based on the facts, and
16 situation of the time. If there's an agreement,
17 we can do that. Are both parties agreed to do
18 that?

19 MR. JABLONSKI: Yes.

20 CHAIRPERSON ANDERSON: Mr. Ortiz?

21 MR. ORTIZ: The district would
22 stipulate to the fact that the Ugly Mug Dining
23 Saloon Valor Brew Pub did not file the quarterly
24 statement for the quarter ending December 2019,
25 due to be filed January 30, 2020. It's the

1 fourth quarter for 2019 that was not filed. The
2 district will stipulate to that fact.

3 CHAIRPERSON ANDERSON: All right,
4 thank you for that stipulation Mr. Ortiz. All
5 right, I'm trying to make everyone's life easier.
6 All right, so we can thank you Ms. Clark, I
7 apologize, but thank you Ms. Clark, I know that
8 you were looking forward to testifying today, and
9 I just took your thunder away, I do apologize for
10 that, but you will have other opportunities to
11 testify, okay? Thank you.

12 MS. CLARK: Thank you.

13 CHAIRPERSON ANDERSON: All right, so
14 what is it that, Mr. Ortiz, you'd like the board
15 to do?

16 MR. ORTIZ: Well, the government
17 recommends that the board apply a penalty
18 consistent with D.C. code section 25-830.

19 CHAIRPERSON ANDERSON: All right, so
20 the penalty consistent with the code. All right,
21 thank you Mr. Ortiz. You see how I try to make
22 this streamlined? Okay, I know you did a lot of
23 work to prepare for the case, but we're trying to
24 streamline it, so -- all right. Thank you sir.
25 Mr. Jablonski, tell us what it is that you want

1 the board to do. You have stipulated that it was
2 not filed. The statement that you were making
3 before, you can repeat it, and tell us what it is
4 that you want us to do please, okay?

5 MR. JABLONSKI: So, what I would ask
6 the board to do is either to dismiss the case, or
7 what I was told by the statute that Mr. Ortiz
8 referred to, that the fine would be 2000 dollars.
9 If this wasn't the pandemic, and I was up, and
10 running normally, and I screwed up, I would say
11 yes. But there's got to be some kind of common
12 sense in leniency, it's a form. I mean, come on,
13 2000 dollars in today's world, that's literally
14 half the rent I'm paying to my landlord, because
15 that's how bad my business has shut down, and
16 been crushed.

17 So, I am here saying that I understand
18 that that is what the statute says, in normal
19 times I would agree. But I would argue that you
20 guys now have the ability from the emergency
21 powers that were created by the mayor, and the
22 other things that you guys were able to create,
23 and change, that you should be able to modify
24 that penalty to a lower, or lesser amount.

25 CHAIRPERSON ANDERSON: All right.

1 Anything else you want to say sir? Anything else
2 you want to say?

3 MR. JABLONSKI: I'm sorry, I thought
4 you were asking him, no, that is it.

5 CHAIRPERSON ANDERSON: All right, the
6 record is now closed, the -- I'm sorry?

7 MEMBER GRANDIS: May board members ask
8 questions?

9 CHAIRPERSON ANDERSON: We weren't
10 asking questions Mr. -- they were just arguing,
11 we agreed that -- we went to closing arguments,
12 because the parties had stipulated on the facts.
13 So, I'm not quite sure what questions you'd want
14 to ask, because factually there's no dispute,
15 both parties are saying that okay, the filing was
16 not made. And the government is stating that we
17 should review the statute, and provide a penalty
18 based on the statute.

19 The licensee is saying that based on
20 the circumstances, based on COVID, then you
21 should not penalize me. So, I'm not quite sure
22 during closing, what questions a board member
23 would ask either party off their closing
24 statements, since there is no factual allegations
25 for us to even consider.

1 MEMBER GRANDIS: Mr. Chairman?

2 CHAIRPERSON ANDERSON: Yes Mr.
3 Grandis.

4 MEMBER GRANDIS: This is just a
5 concern, before we went on recess to allow the
6 two parties to talk, it's my impression that the
7 licensee stated that he believed that the issue
8 was regarding a different filing date, and not
9 the filing date that the government cited him
10 for. So, I'm just puzzled if the licensee after
11 the discussions, is in agreement with the date
12 that he is being cited under. Because I do think
13 the record shows that he was stating a different
14 quarter, and a different year. I just want
15 clarification, thank you.

16 CHAIRPERSON ANDERSON: The
17 stipulation, both parties stipulated that it was
18 for quarter 19 that it was not filed. So, both
19 the licensee, and the government stipulated that
20 that was the period in question. So, that was --
21 that's why we had the stipulation, because based
22 on the conversation that was held off the record,
23 both parties were on board that quarter 19 was
24 the appropriate quarter.

25 And that's one of the reasons why the

1 licensee argued that because it was quarter 19,
2 and the onset of COVID, that we should provide
3 some type of leniency, because of what was going
4 on in the latter part of 2020.

5 MR. JABLONSKI: Mr. Chairman, can I
6 say one thing just to kind of clarify why there
7 is confusion on my end, is that possible?

8 CHAIRPERSON ANDERSON: All right.

9 MR. JABLONSKI: The reason why I had
10 confusion was the notification for this violation
11 came early this year, 2021. And when we were
12 emailing back, and forth talking about the fourth
13 quarter, I had assumed that they were talking
14 about 2020, because I didn't file the fourth
15 quarter 2020 until late, because we were shut
16 down, and then I realized I didn't file that,
17 because we were shut down until basically mid
18 January, or February. So, that was the
19 misunderstanding.

20 I thought we were talking about that,
21 because of when the violation came about. And
22 that was where the confusion came from.

23 CHAIRPERSON ANDERSON: All right,
24 thank you for the clarification sir. Are your
25 questions answered Mr. Grandis?

1 MEMBER GRANDIS: I'm fine, I just
2 thank you for the opportunity, thank you.

3 CHAIRPERSON ANDERSON: Thank you. I
4 want to thank both parties for their presentation
5 today, and allowing us to streamline this
6 process, and we will -- the board will consider
7 the recommendation made by the government, and
8 also consider representation made by the licensee
9 in making our determination. So, all right. As
10 Chairperson of the Alcoholic Beverage Control
11 Board for the District of Columbia, and in
12 accordance with D.C. code section 2574B of the
13 Open Meetings Act, I move that ABC Board hold a
14 closed meeting for the purpose of seeking legal
15 advice from our counsel on case number 20-AUD-
16 00017, the Ugly Mug Dining Saloon pursuant to
17 D.C. code section 2574B4 of the Open Meetings
18 Act.

19 And deliberate upon case number 20-
20 AUD-00017, the Ugly Mug Dining Saloon for the
21 reasons cited in D.C. code section 2574B13 of the
22 Open Meetings Act, is there a second?

23 MEMBER SHORT: I second.

24 MEMBER CROCKETT: Second.

25 CHAIRPERSON ANDERSON: Mr. Short, and

1 Ms. Crockett have seconded the motion, I will now
2 take a roll call vote on the motion before us.
3 Mr. Short?

4 MEMBER SHORT: Mr. Short, I agree.

5 CHAIRPERSON ANDERSON: Mr. Cato?

6 MEMBER CATO: Bobby Cato, I agree.

7 CHAIRPERSON ANDERSON: Ms. Crockett?

8 MEMBER CROCKETT: Rafi Crockett, I
9 agree.

10 CHAIRPERSON ANDERSON: Ms. Hansen?

11 MEMBER HANSEN: Jeni Hansen, I agree.

12 CHAIRPERSON ANDERSON: Mr. Grandis?

13 MEMBER GRANDIS: Edward Grandis, I
14 agree.

15 CHAIRPERSON ANDERSON: And Mr.

16 Anderson, I agree. As it appears that the motion
17 has passed, I hereby give notice that the ABC
18 board will recess these proceedings to hold a
19 closed meeting ABC Board conference room pursuant
20 to section 2574B of the Open Meetings Act. Thank
21 you very much for your presentation sir. The
22 board will take the representations that were
23 made by both sides, and we will make a decision.
24 Thank you, and have a great day.

25 MR. JABLONSKI: Thank you.

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MR. ORTIZ: Thank you, you do as well.
(Whereupon, the above-entitled matter
went off the record at 2:17 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: The Ugly Mug Dining Saloon

Before: DCABRA

Date: 09-29-21

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

Neal R Gross

Court Reporter

NEAL R. GROSS

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