

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE AND CANNABIS BOARD
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MEETING

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IN THE MATTER OF: :
 :
Elevated Lounge :
1512 U Street NW :
ANC 2B :
Case #24-ULC-00010 :
 :
(Request for Expedited :
Hearing on Board :
Order No. 2024-617) :
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Friday
October 4, 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:

JOSE ORELLANA, DC ABCA Staff
AARON ROGERS, Licensee
LEV IWASHKO, Licensee Counsel
INVESTIGATOR JASON PERU, DC ABCA

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

2 11:51 a.m.

3 CHAIRPERSON ANDERSON: We are back on
4 the record. The next case on our calendar is
5 Case Number 24-ULC-00010, Elevate Lounge. Again,
6 this is a request for an expedited hearing on
7 Board Order Number 2024-617. Mr. Orellana, can
8 you please elevate the rights of the parties in
9 this case?

10 MR. ORELLANA: Lev Ivan Gabriel
11 Iwashko, Esquire, your access has been elevated.
12 Aaron Rogers, your access has been elevated.
13 That is all Chairman.

14 CHAIRPERSON ANDERSON: Thank you. Does
15 Mr. Rogers have a camera to turn on? I will
16 start with you, Mr. -- I apologize, sir, spell
17 and state your name for the record for me,
18 please, sir.

19 It is Lev Ivan Gabriel Iwashko, so Mr.
20 Iwashko or Lev is fine.

21 CHAIRPERSON ANDERSON: Mr. Iwashko, all
22 right. Mr. Rogers, does Mr. Rogers have -- can
23 he turn his camera on?

24 MR. ROGERS: I thought it was on. I am
25 sorry, sir. How is that?

1 CHAIRPERSON ANDERSON: I still cannot
2 see you, sir.

3 MR. ROGERS: Do you see me now?

4 CHAIRPERSON ANDERSON: No, sir.

5 MR. ROGERS: Why does it say preview
6 only, camera settings, okay. I have --

7 CHAIRPERSON ANDERSON: Did you press
8 start?

9 MR. ROGERS: What is start? I mean, I
10 am in. I do not know why. I pushed this red
11 button here and it didn't --

12 CHAIRPERSON ANDERSON: I think (audio
13 interference) is trying to give you some
14 directions how to get your camera on, sir.

15 MR. ROGERS: Okay, I am listening.

16 CHAIRPERSON ANDERSON: I think he had
17 put something in the chat.

18 MR. ROGERS: I see me, I see a video,
19 but I do not see a thing. Make me presenter at a
20 display, mute me, I am on Aaron Rogers. There is
21 a camera in the upper right. I keep hitting it
22 and it does not -- it says preview, and then when
23 I go to camera (audio interference). Can they
24 call me Lev?

25 CHAIRPERSON ANDERSON: I mean, I can

1 hear you, sir. If you do not have a camera we
2 can move on. I like to see the --

3 MR. ROGERS: I do have a camera, sir,
4 and I would love for you to see me. I have
5 waited a long time. This is not the way I wanted
6 it to be, but -- share content or camera.

7 MR. IWASHKO: There is a button --
8 there you go.

9 CHAIRPERSON ANDERSON: All right. Do
10 not share the content. Whatever you did, I saw
11 something. I saw -- I do not know what I saw,
12 but you just did something, so your camera is
13 working. I just did not see your face, but I saw
14 something a minute ago, sir?

15 MR. ROGERS: How is that?

16 CHAIRPERSON ANDERSON: Not yet. Yes,
17 yes. Leave the camera alone. Yes, I can see
18 you. All right, sir. Thank you. Spell and
19 state your name for the record and your
20 relationship to the establishment, sir.

21 MR. ROGERS: My name is Aaron Rogers,
22 and I am the owner.

23 CHAIRPERSON ANDERSON: You are the
24 owner of what? Was it Elevate Lounge?

25 MR. ROGERS: Well, it is actually

1 Elevated Tours. I actually have a tour to go to
2 right after this. Elevated Lounge, Elevated
3 Arts, there is a A&R Logistics.

4 CHAIRPERSON ANDERSON: All right.
5 Okay, Mr. Peru, can you spell and state your name
6 for the record?

7 MR. PERU: Investigator Jason Peru, J-
8 A-S-O-N, P-E-R-U.

9 CHAIRPERSON ANDERSON: All right, Mr.
10 Iwashko, you have requested a hearing based on
11 the cease and desist order that was issued. You
12 are challenging in the cease and desist order, so
13 the way it operates is that since you are
14 challenging the order you can make an opening
15 statement, if you want to call a witness you can
16 call a witness, and then the Board will have Mr.
17 Peru testify. Do you have any preliminary issues
18 that you want to raise with the Board before we
19 start, sir?

20 MR. IWASHKO: Actually I do. Thank you
21 very much. So first off, it is not Elevate
22 Lounge it is Elevated Lounge is the entity, but
23 that is not the actual entity. Actually at that
24 location my client actually has an application
25 that he put in for under AR Logistics, and also

1 from that location he operates Elevated Tours.
2 So Elevated Lounge is just a trademark that is
3 about to actually get federal registration.
4 Elevated Tours and Elevated Arts already has been
5 federally registered by United States Patent and
6 Trademark Office for their operations, and
7 Elevated Lounge is about to. We already have an
8 approval, just waiting for the issuance. So just
9 wanted to clarify because I know it is a lot of
10 entities. Most of it is branding, but as far as
11 that location the social equity application was
12 under AR Logistics. That is correct, right,
13 Aaron?

14 MR. ROGERS: Correct. Yes, that is
15 correct.

16 MR. IWASHKO: Okay. So I just wanted
17 to clarify that portion. So it is more of a
18 clerical matter, but just to be clear on
19 everything, all the marks are Elevated, so
20 Elevated Arts, Elevated Lounge, Elevated Tours,
21 and AR Logistics LLC is the one that applied for
22 that location. As far as the operations there I
23 think Mr. Rogers does have a tour going from that
24 location, is that correct?

25 (Simultaneous speaking)

1 CHAIRPERSON ANDERSON: Hold on, Mr.
2 Rogers. Hold on a minute, Mr. Rogers, hold on.
3 What we are doing right now, Mr. Iwashko, is you
4 can make a opening statement and then you can
5 call your witness. You can call Mr. Rogers to
6 testify if you so -- basically just -- I know
7 that there were -- you had asked for certain
8 witnesses, and when I said preliminary issues
9 that is what I meant. I appreciate the
10 clarification of the -- you talk about the
11 Elevated Lounge, Elevated Tours, AR Logistics,
12 and maybe as we move forward you can tell us what
13 Elevated Lounge is, you can tell us what AR
14 Logistics, Elevated Tours, and you can give us
15 the address for those businesses and what it is
16 that those businesses currently -- how they
17 operate. You can talk about that later on, but I
18 was just saying I know that you had filed some
19 motions asking for witnesses. Are those still
20 active, or you are going to move on from that?

21 MR. IWASHKO: Essentially, the
22 direction that we want to move here, and the
23 reason that we want to call everyone as a witness
24 who is present here is because --

25 CHAIRPERSON ANDERSON: All right. Who

1 do you want to call as witnesses?

2 MR. IWASHKO: Everyone present here, as
3 well as Mr. Peru, yourself --

4 CHAIRPERSON ANDERSON: All right. So,
5 of course, you can call Mr. Peru as a witness,
6 and there is no prohibition against calling Mr.
7 Peru as a witness, however, as an attorney you
8 should be aware that a judge or any of the
9 judiciary officers here in this case cannot be
10 called as witnesses in proceedings. So,
11 therefore, you cannot call myself or the other
12 two Board members as witnesses. That is
13 prohibited by the judicial proceeding.

14 MR. IWASHKO: Because this is a very
15 unique type of proceeding, and the rules -- I
16 watch a bunch of them and so that is why I
17 figured I would at least try because, again, the
18 direction that we want to go is we want to show
19 that there has been strict cooperation and wants
20 to continue to cooperate, and that is all. We
21 just had some questions, so maybe even a private
22 session after this on some other day would be in
23 order or more appropriate. So I --

24 CHAIRPERSON ANDERSON: You can have
25 public private sessions with Mr. Peru, if he is

1 available, as in his employ as supervisor
2 investigator for ABCA, but you will not be able
3 to have any conversations with the Board unless -
4 - you cannot call the Board as a witness, and you
5 cannot have conversations with the Board
6 regarding the nature of this litigation. We ask
7 questions, you are unable to ask us questions,
8 because we are -- this is an administrative
9 hearing and we are administrative officers so
10 that is prohibited by the rules and regulations
11 for you to call us as witnesses. There is no
12 problem in having and you calling Mr. Peru as a
13 witness, you can even call him as a hostile
14 witness. You can question him. As I said,
15 although you are calling him as a witness you can
16 label him as a hostile witness and question him
17 whichever way you so desire. So you do have that
18 right, but you do not have that right to call the
19 members of the Board as a witness.

20 MR. IWASHKO: Okay. Well, thank you
21 very much. So whenever you are ready I will
22 start with my opening statement.

23 CHAIRPERSON ANDERSON: You can go
24 ahead, sir.

25 MR. IWASHKO: All right. Thank you

1 very much. So essentially we are trying, and to
2 keep this short and sweet, Mr. Rogers is a tax
3 paying employer who also contributes to various
4 charities, as well as in one of his locations the
5 recreation center across the street, and he is a
6 stand up citizen in the community, he is well
7 recognized, well respected. Also he emulates the
8 definition of special circumstances with regards
9 to these proceedings because what he does, very
10 few, if any people do, much less in DC, he not
11 only sells artwork but he also holds these
12 sessions where people come and they paint, they
13 socialize, is taught techniques on how to paint.
14 That the Elevated Arts aspect. He also has a
15 safe haven for people who like to socialize, be
16 together, that is the Elevated Lounge aspect.
17 Then, of course, his creux de ta of excellence is
18 his Elevated Tours, which he actually, because of
19 his love of and appreciation of the architecture,
20 the community, the culture in Washington, DC he
21 actually brings people on these tours and he
22 teaches them, and shows them the beauty of our
23 city. So people come from all over just to
24 experience his vault in addition to anything else
25 they want to do in Washington, DC as well as to

1 experience his tours, and they leave DC being
2 much more educated about what it means to be
3 immersed in the DC culture. Also he gives them
4 an opportunity to relax and have kind of an
5 environment where they are not judged, they can
6 ask questions, and they can really experience it
7 in ways that other tour groups may not offer. Of
8 course besides being taxpaying and having his
9 business licenses, like I mentioned before, he
10 does have his federally registered trademarks
11 which he really was adamant about getting. That
12 is actually how we met in 2020. He came to me
13 asking about different things with the laws, and
14 he has always wanted to maintain compliance with
15 all the laws, rules, and regulations of
16 Washington, DC. Because of what his companies
17 do, which is do art sessions, art classes, and
18 provide tours he has well established turn key
19 businesses. That is his bread and butter. So
20 when he received his cease and desist he
21 immediately stopped and cease and desisted. So
22 ultimately one of the main purposes of this
23 hearing is to make sure the Board is very well
24 aware that Mr. Rogers wants nothing more but to
25 remain in compliance with all the rules, laws,

1 and regulations up in Washington, DC because he
2 wants to just understand the pathway having
3 already applied at every single potential session
4 that he could apply for, his licenses, and he has
5 already received some of them the cultivation,
6 manufacturing, and as an unlicensed operator he
7 even went for social equity. He did not want to
8 go for social equity, he was advised, and we can
9 talk about that later, by Inspector Peru to go
10 for that social equity license. Ultimately, he
11 really is trying to maintain compliance, which
12 incidentally is why I had originally wanted to
13 call everyone as a witness because we actually
14 just have questions on what can Mr. Rogers do to
15 proceed in the proper direction under the
16 guidance of ABCA and do everything the proper
17 way, because as far as we are concerned we have
18 been doing everything the right way and he has
19 been in compliance. Again, the instant that he
20 found out that there is something that he should
21 not be doing he ceased doing it and he has
22 continued to cease doing it. So right now we
23 believe that he should be able to continue to
24 conduct business doing the other things that he
25 does, because as far as the sale of cannabis he

1 is not doing that.

2 CHAIRPERSON ANDERSON: All right, so
3 what is it you are asking the Board today. I
4 mean, the Agency issued a cease and desist
5 because the allegation was that Mr. Peru observed
6 -- the allegation that on July 26th Mr. Peru went
7 and found cannabis products for sale and that he
8 issued a cease and desist at this, I guess, at
9 the 1512 U Street location. So I guess the
10 bottom line is that what is it that you are
11 seeking today from the Board? Why are you here?
12 What do you want?

13 MR. IWASHKO: We want Mr. Rogers to
14 continue to operate his businesses with the
15 understanding that there are going to be no sales
16 and we actually have strict evidence of there not
17 being any sales because unfortunately he was
18 recently burglarized and there were no products
19 taken because there were no products there to
20 take, which further demonstrates his compliance
21 with the cease and desist order.

22 CHAIRPERSON ANDERSON: Well, the
23 purpose of the cease and desist is to -- we are
24 trying to limit or try to make sure that there
25 are no commercial activities of cannabis sale

1 gifting on the premises. I think you made a
2 statement that he has applied for a license, I
3 guess a conditional license I suppose.

4 MR. IWASHKO: If you have a conditional
5 license a conditional license means that you do
6 not have a location. So I believe, and do not
7 quote me on this, that maybe if a license was
8 requested for 1512 U Street. I believe, do not
9 quote me, but it appears that it is within 300
10 feet of a recreational center so therefore a
11 license for that location -- I am not sure. I
12 guess what I am trying to find out is basically
13 what is it that you want us to do today? I mean,
14 a cease and desist, what is the representation
15 that has been made? Is it that there was never
16 any cannabis on the location, or as of a certain
17 date there is no sale or gifting of cannabis. So
18 if Mr. Rogers' business Elevate Lounge, AR
19 Logistic, Elevated Lounge, I am sorry, AR
20 Logistics, Elevated Tours, our cease and desist
21 does not impact Elevated Lounge, AR Logistics,
22 Elevated Tours. Our cease and desist is issued
23 to state that there can be no -- in a commercial
24 space there can be no sale or gifting of Cannabis
25 products without having a license. So that is

1 the purpose of our cease and desist.

2 MR. IWASHKO: Well, I just want to
3 clarify one thing real quick. He actually
4 already holds the conditional cultivation and
5 manufacturing applications that were approved.
6 This one that we are talking about for AR
7 Logistics this was the retailer license.

8 CHAIRPERSON ANDERSON: No, but I am
9 saying a conditional license means that it is
10 conditional, meaning that you do not have a
11 license. If you have a conditional license, a
12 conditional license is issued because you do not
13 have a location. So what that means is that
14 until you have a location and that we issue you
15 the actual license you cannot sell, grow,
16 commercially -- you cannot do any commercial
17 transaction as far as cannabis is concerned
18 without having a license. That is what it means
19 to have a conditional license. You said you do
20 not have a location and so, therefore, you cannot
21 grow, you cannot sell, you cannot, and if you are
22 growing cannabis, if you are gifting cannabis, if
23 you are selling cannabis, when it is time to
24 grant you a license the Board might not look
25 favorable on that, because it says that prior to

1 having a license you are not complying with the
2 law. So I just wanted to say what that means to
3 have a conditional license.

4 MR. IWASHKO: That is why we are --
5 (audio interference)

6 CHAIRPERSON ANDERSON: Sir, hold on.
7 Hold on a minute. You are breaking up, sir. You
8 are breaking up, so you need to repeat what you
9 just stated.

10 MR. IWASHKO: Can you hear me better
11 now?

12 CHAIRPERSON ANDERSON: Yes, go ahead.

13 MR. IWASHKO: Okay, excellent. Yes, so
14 that is why we were saying that he is not --
15 since the cease and desist was issued, and it was
16 clearly stated what is not proper to do he is not
17 doing those things. He is not selling, gifting
18 at this point any cannabis or cannabis related
19 product.

20 CHAIRPERSON ANDERSON: So the
21 representation that is being made is that as of
22 what date? What is the date that has been
23 provided to us for the record? What is the
24 representation that is being made?

25 (Simultaneous speaking)

1 MR. IWASHKO: Whatever day Inspector
2 Peru came the first time.

3 CHAIRPERSON ANDERSON: When was the
4 first time? Mr. Rogers, you have to be --

5 MR. ROGERS: Yes.

6 CHAIRPERSON ANDERSON: Hold on, Mr.
7 Rogers, you can only speak through your attorney.

8 MR. ROGERS: I know, I am sorry. I
9 apologize. I apologize truly.

10 CHAIRPERSON ANDERSON: No, no, no, hold
11 on, Mr. Rogers. This is for your own protection.
12 You hired an attorney to represent, so --

13 MR. ROGERS: Yes.

14 CHAIRPERSON ANDERSON: -- I want to
15 make sure that your attorney knows what you are
16 about to say. That is all I am saying. Okay?
17 So you need to speak through your attorney. He
18 will make sure that he protects you from
19 yourself. Sometimes that is why we have an
20 attorney to protect us from, so I want to give
21 you the courtesy to say that if you need to speak
22 to him offline you can give him a call and share
23 with them, but just to protect you since you have
24 representation, sir. Okay? That is why.

25 MR. ROGERS: To be honest, sir, I

1 figure once I get called clarity comes, so --

2 CHAIRPERSON ANDERSON: That is fine.

3 So if he calls you --

4 MR. ROGERS: -- for here I am letting
5 everybody do what they do, what I paid for.

6 CHAIRPERSON ANDERSON: All right. So,
7 Mr. --

8 MR. ROGERS: We will get there soon
9 enough I am sure.

10 CHAIRPERSON ANDERSON: That is Mr.
11 Rogers speaking. So Mr. Iwashko go ahead.

12 MR. IWASHKO: Yes, it looks like it was
13 on April 4, 2024.

14 MR. ROGERS: Correct.

15 MR. IWASHKO: Yes, that was the day,
16 and then -- yes, and then in August he came to
17 serve the cease and desist. On that day we were
18 calling Inspector Peru just to clarify and
19 verify, but he did not observe any product at
20 that point, demonstrating that Mr. Rogers had
21 been in compliance for months since his initial
22 visit in April. So from April to August, that is
23 May, June, July, August, that is about four
24 months.

25 MR. ROGERS: Can we stop?

1 CHAIRPERSON ANDERSON: Hold on a
2 minute, Mr. Rogers. Maybe you and -- Mr.
3 Iwashko, do you want me to go off the record so
4 you two can talk?

5 MR. ROGERS: Yes, can I -- yes, and I
6 can talk through here if I can just go off
7 record, that is fine.

8 CHAIRPERSON ANDERSON: All right, so we
9 are off the record. It is 12:16, how long do you
10 want? Five, ten minutes?

11 MR. ROGERS: Forty-five seconds.

12 CHAIRPERSON ANDERSON: Okay, we are off
13 the record until 12:20. Okay?

14 MR. ROGERS: All right.

15 (Whereupon, the above-entitled matter
16 went off the record at 12:16 p.m. and
17 resumed at 12:20 p.m.)

18 CHAIRPERSON ANDERSON: Okay. We are
19 back on the record.

20 MR. IWASHKO: So basically it was just
21 a point of clarification regarding the first time
22 when Inspector Peru came in April. He ordered
23 Mr. Rogers to remove the eatables for food, which
24 he did. He came again in July -- oh, but he did
25 not say anything about any kind of flower. When

1 he came back in July he noticed that the eatables
2 were gone, so that was the first issue of
3 compliance. Then he said, okay, now remove the
4 flower, which he did. When he came back to do
5 the cease and desist in August there were no
6 products there. So, again, I think this is a
7 strict demonstration of Mr. Rogers' sincere
8 desire to be compliant and try to get on the
9 right path with ABCA so he can legally sell as a
10 licensed operator.

11 CHAIRPERSON ANDERSON: You can present
12 your case if you want, but I just wanted to state
13 that if the parties, either Mr. Rogers or you, I
14 mean, you can call the counsel, our general
15 counsel's office, and we can provide guidance, at
16 least from a legal prospective. Of course, Mr.
17 Peru is available, but as the attorney if you
18 need some guidance you can call our legal office
19 and we will let you know from a legal prospective
20 the state of the law, what is it that can or
21 cannot be done. I mean, the bottom line is that
22 if you have a conditional license you cannot
23 commercially sell, gift, store, cannabis because
24 you have a conditional license.

25 MR. IWASHKO: Correct.

1 CHAIRPERSON ANDERSON: The conditional
2 means that you do not have a location, and once
3 you have identified a location then you will let
4 the Board know that you have a location and that
5 you now want to convert your conditional license
6 into a standard license we will go and to make
7 sure that there is not another facility within
8 400 feet of your location. We will also ensure
9 that you are not within a certain feet of a, well
10 I guess now for a daycare, a recreational center,
11 a school. Then if all of that is met then we
12 will placard. The Agency will placard the area,
13 the location, to let the ANC know that someone
14 has applied for a license in this location, is
15 this of concern to you? Then the ANC would
16 either protest it or meet with the owner to day,
17 well, let's do a settlement or we go to a protest
18 hearing whether or not a license can be granted.
19 Irrespective of what happens during this period
20 of time the applicant cannot possess any cannabis
21 in a commercial space, it cannot. It cannot.
22 When I say possess it cannot be sold, it cannot
23 be gifted. If Mr. Rogers is operating elevated
24 tours he can give his tours, but he cannot have
25 cannabis as part of the tour, he cannot gift

1 cannabis, he cannot sell cannabis because he does
2 not have a license. Because as part of his
3 license, I mean, as part of your license you can
4 do education as part of your license, but you
5 cannot possess legally cannabis in the District
6 of Columbia in a commercial space. I do not want
7 to say how much you can have as a individual,
8 because of course you can possess a certain
9 amount of cannabis for your personal use in your
10 residence or within the confines of your
11 residence, but when we are talking about
12 commercial space you cannot have this amount of
13 cannabis. Our position is that the order notices
14 the future enforcement in commercial spaces,
15 because that is where we are, we are talking
16 about the commercial spaces. I mean, we do not
17 regulate residence, we do not regulate a
18 residence. Our jurisdiction talks about
19 commercial space that you are selling cannabis in
20 a commercial space, but, again, the law is clear
21 about what folks can possess in their residence
22 anyway. So what are you asking for? What is it
23 that you are asking the Board to do? There is a
24 current cease and desist. So what is it that you
25 are asking the Board to do today?

1 MR. IWASHKO: Can we go off the record
2 for one more five minutes until 12:30, please?

3 CHAIRPERSON ANDERSON: It is 12:20.
4 Okay, we are off the record until 12:30.

5 MR. IWASHKO: Thank you.

6 CHAIRPERSON ANDERSON: Alright.

7 (Whereupon, the above-entitled matter
8 went off the record at 12:20 p.m. and
9 resumed at 12:31 p.m.)

10 CHAIRPERSON ANDERSON: Alright, these
11 are the options that you can do today. Do you
12 want to continue this hearing, or do you want to
13 talk to our legal office about some type of
14 settlement. Those are the options. We do not
15 necessarily have to move forward with this. We
16 could continue this hearing. We could bring this
17 case to an end and continue it. You can talk to
18 our general counsel's office to discuss the
19 terms, and if you want to come to a settlement
20 from there then it can be settled then. So we do
21 not have to do this process, continue this
22 hearing if you do not want to.

23 MR. IWASHKO: Well, the question is
24 this. Here has been the issue, please just give
25 me 30 seconds to kind of describe. Mr. Rogers

1 has gone there multiple times to try to get
2 information on how to move forward and no one is
3 talking to him. He has really been there many
4 times, and right now, yes, part of this hearing
5 was to demonstrate that he has been in
6 compliance, to show you that he has behaved as he
7 has been instructed and ordered. Part two is
8 where do we go from here? It is not just 300
9 feet rule here, 400 feet rule here, do not sell
10 until we tell you, you can sell it when you have
11 the proper space, it is what exactly does it
12 take? What is the pathway? Every time he goes
13 and tries to get this information he gets
14 stonewalled. That is what the issue is here, and
15 as somebody who has been nothing but a good actor
16 in this space, trying to maintain compliance, and
17 he has not even gotten the response on his social
18 equity application yet. So this is to get a
19 cease and desist without even a response about
20 the application. It is all very jumbled, and
21 contradictory, and confusing for Mr. Rogers.

22 CHAIRPERSON ANDERSON: Well, what I
23 could suggest, sir, is that we can continue this
24 hearing. You have been in contact with our
25 general counsel's office.

1 MR. IWASHKO: Correct.

2 CHAIRPERSON ANDERSON: Your lawyer has.
3 Mr. Rogers, your lawyer has been in contact with
4 our general counsel's office. I have seen the
5 communication. Hold on, Mr. Rogers, I have seen
6 you sent a letter to our general counsel, our
7 associate general counsel. You sent a letter to
8 the general counsel's office, right?

9 MR. IWASHKO: That is correct.

10 CHAIRPERSON ANDERSON: Our general
11 counsel's office responded back to you, sir, to
12 say you are being represented, we need to get in
13 contact with your lawyer. Your lawyer has
14 contacted our office, we have been in response.
15 Our lawyer has responded to your lawyer. So I
16 would suggest, if your lawyer wants this, for us
17 to do this. Let's continue the hearing. Your
18 attorney will have a conversation with our
19 attorney. Whatever meeting that can be set up
20 our attorney will ensure that it happens, and if
21 there is no satisfaction there we can continue
22 this hearing. We can continue this hearing if
23 that is what you want. So the lawyers can be in
24 contact. Once the lawyers are in contact, the
25 lawyer will ensure that an appropriate member of

1 the Agency meets with Mr. Rogers to educate him
2 on the process. Then, Mr. Iwashko, if you can
3 then -- I wrote it down phonetically so I can
4 try, at least try to pronounce your name
5 correctly, but then you then, sir, could come
6 back to us if you are dissatisfied with our
7 process to say you want for us to continue with
8 this hearing so we can make a decision. So we
9 can move forward with the hearing today, or if
10 you want we can continue the hearing so you can
11 contact our general counsel's office to work on
12 the logistics of what can be done.

13 MR. IWASHKO: Okay. In actuality I
14 think that sounds like a very good plan. I think
15 that you, Chairman, for that option because that
16 gives us both the option to be in contact with
17 your general counsel, we go, we take care of
18 anything. We potentially can fix those issues,
19 and then if we have to continue this hearing we
20 will. That option remains open. I think that
21 would work. I think that my client would agree.
22 Is that yes?

23 MR. ROGERS: Yes, that would be
24 wonderful. Let's figure out how we can all work
25 together. You know, Mr. Anderson, you were my

1 minoot.

2 CHAIRPERSON ANDERSON: You are welcome,
3 Mr. Rogers. The Board is here trying to ensure
4 that licensees that they know the law, and that
5 they comply with the law. We are not trying to
6 get to you. We want to make sure that we educate
7 you with what the confines of the law. Hold on
8 one minute, please.

9 MR. ROGERS: Also interagency thing.

10 CHAIRPERSON ANDERSON: All right. So,
11 basically, we are going to continue this hearing.
12 Counsel will contact our counsel to see if
13 settlement can be reached between counsel.
14 Licensing can provide guidance to, Mr. Rogers, to
15 you what the law -- that if you have a
16 conditional license what that means. As Mr. Peru
17 has testified in previous hearing, when he goes
18 and gives warnings he provides this information
19 to licensees to say generally to comply with the
20 law this is what needs to be done, but if you
21 need more information then it appears that
22 licensing needs to give you a little bit more
23 guidance in not your business operation, but say
24 this is the state of the law. For example, if
25 you apply for a license and you were told that

1 you are 300 feet from a recreational center the
2 law says that you cannot overcome that. Maybe if
3 you are saying that we measured improperly then
4 that is something that can be challenged, but if
5 the recreational center is there and it is 300
6 feet then the law says it cannot be, or if you
7 are within a certain location of another license
8 or for a school, or a daycare provider what the
9 law says is if that is the case it cannot be.
10 So, therefore, I believe that the licensing
11 division will say that you have to find another
12 location. I think that it appears that there is
13 some information that is missing here, so we will
14 have counsel contact our counsel's office, see if
15 this matter can be settled. If it cannot be
16 settled then you can advise us that you want us
17 to continue this hearing because you want to
18 litigate it and for the Board to make a
19 determination whether or not they are going to
20 lift the cease and desist, or whether or not they
21 are going to keep it in effect. I just want to
22 before I bring closure to this case is that until
23 those communications occur this is just to inform
24 you, Mr. Rogers, that you cannot -- in a
25 commercial space you cannot give or sell cannabis

1 in a commercial space, and that is what we
2 regulate. We regulate what happens in a
3 commercial space as far as cannabis is concerned.
4 If you want to operate your tours we do not
5 regulate as long as you have the proper license
6 from the appropriate agency to operate your
7 business you are fine. All that we regulate is
8 cannabis, and all that we want to ensure is that
9 there is no sale, possession, gifting of cannabis
10 in any commercial spaces, sir. That is what this
11 is about. So we will continue this hearing so
12 counsel can have a conversation. If the agency's
13 counsel and your counsel if that is unworkable
14 then Mr. Iwashko we can resume this hearing at a
15 time that is convenient to the parties so the
16 Board can make a decision whether or not we are
17 going to lift the cease and desist or whether or
18 not to abstain in place. Okay? Is that what you
19 want us to do, sir?

20 MR. IWASHKO: Yes, that sounds actually
21 excellent. Thank you very much.

22 CHAIRPERSON ANDERSON: All right. If
23 there is no further business -- I know that you
24 have been in contact with our counsel, so you do
25 have the contact information for our counsel, is

1 that correct?

2 MR. IWASHKO: Yes, I have spoken to a
3 few different people, but, yes.

4 CHAIRPERSON ANDERSON: I think you have
5 been in contact with Mr. Berman.

6 MR. IWASHKO: Recently, but there were
7 also a few other people.

8 CHAIRPERSON ANDERSON: Well, our
9 general counsel is Martha Jenkins.

10 MR. IWASHKO: Thank you. Martha
11 Jenkins, that is who I spoke with before.

12 CHAIRPERSON ANDERSON: All right. So
13 you start through there. Okay? She is our
14 general counsel, you start through there and she
15 will assign it to the appropriate attorney within
16 our office who will take care of that. All
17 right?

18 MR. IWASHKO: Okay. Thank you very
19 much for your time.

20 CHAIRPERSON ANDERSON: Thank you. All
21 right, so we are continuing this matter and the
22 parties can let us know whether or not we need to
23 resume it at a future date. All right. Thank
24 you very much. Have a great day.

25 MR. IWASHKO: Thank you, Board.

1 CHAIRPERSON ANDERSON: All right. So
2 with that said the Board then will be on recess
3 until our 1:30 hearing. I will ask all Board
4 members to return -- I'm sorry, I will ask all
5 Board members to logon into executive session at
6 1:15. So we will come back to public at 1:30,
7 but all Board members should log back into
8 executive session at 1:15. All right? Thank
9 you. Have a great morning. Bye, bye.

10 (Whereupon, the above-entitled matter
11 went off the record at 12:43 p.m.)
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In the matter of: Elevated Lounge

Before: DC ABCA

Date: 10-04-24

Place: teleconference

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Court Reporter

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