

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: :
 :
Sammy Liquor, LLC, :
t/a Sammy's Liquors :
2725 Bladensburg Road NE : Show Cause
Retailer A - ANC 5C : Hearing
License #108222 :
Case # 23-CC-00012 :
 :
(Sale to Minor Violation, :
Failed to Take Steps :
Necessary to Ascertain :
Legal Drinking Age) :
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Wednesday
October 18th, 2023

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

PRESENT:

DONOVAN W. ANDERSON, Chairperson
BOBBY CATO, JR., Member
EDWARD S. GRANDIS, Member
JENI HANSEN, Member
JAMES SHORT, JR., Member

ALSO PRESENT:

JOSE ORELLANA, DC ABCA Staff
JAMESON CHARLES, DC ABCA Staff
MAKSYM SHYYAN, Licensee
JANIS LEWIS, Licensee
INVESTIGATOR MARK RUIZ, DC ABCA
ALYCIA HOGENMILLER , DC OAG

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

2 11:18 a.m.

3 CHAIRPERSON ANDERSON: The next case in
4 our calendar is Case Number 23-CC-00012, Sammy's
5 Liquors, License Number 108-0822.

6 Good morning again, Mr. Orellana. Can
7 you please elevate the rights of the government,
8 the Licensee, and whatever witnesses that the
9 parties might have in this case?

10 MR. ORELLANA: Sure. Maks Shyyan, your
11 access has been elevated. Alicia Hogenmiller.
12 Your access has been elevated. Investigator Mark
13 Ruiz, your access has been elevated. And that
14 appears to be all, Chairman.

15 CHAIRPERSON ANDERSON: All right, let
16 me see. All right. Good morning, everyone. Ms.
17 Hogenmiller. Good morning. You have not appeared
18 before me before, so good morning. Can you please
19 spell and state your name for the record?

20 MS. HOGENMILLER: Good morning.
21 Chairperson. Assistant Attorney General Alicia
22 Hogenmiller. On behalf of the District.
23 A-L-Y-C-I-A H-O-G-E-N-M-I-L-L-E-R.

24 CHAIRPERSON ANDERSON: Morning, ma'am.
25 And, Mr. Shyyan, can you please spell and state

1 your name for the record and your relationship to
2 this case?

3 MR. SHYYAN: My name is Maksym Shyyam.
4 M-A-K-S-Y-M. Last name Shyyan, S-H-Y-Y-A-N, and I
5 am the managing partner of Sammy's Liquors, LLC.
6 And if I may, we should have an, I apologize if I
7 didn't introduce this name before, Ms. Janice
8 Lewis should be in the waiting room as well. If
9 we could elevate her rights. She is the employee,
10 and she is the actual person that was involved in
11 the incident.

12 CHAIRPERSON ANDERSON: All right. She
13 has been elevated.

14 MR. SHYYAN: Thank you.

15 CHAIRPERSON ANDERSON: All right, so,
16 Ms. Lewis, are you there? Mr. Orellana, can you
17 please make sure that, Ms. Lewis, can you please
18 spell and state your name for the record?

19 MS. LEWIS: Yes. My name is Janice
20 Lewis. That's J-A-N-I-S. Last name, L-E-W-I-S.

21 CHAIRPERSON ANDERSON: All right. Thank
22 you, ma'am. You're not on camera, but if you're
23 going to testify later on in this case, I would
24 appreciate if you were able to turn your camera
25 on if you have that ability, but that's not

1 something that I need right now. But if this
2 matter goes to a hearing, and if you're going to
3 testify, I prefer that I can see the person who's
4 testifying, so we'll approach that later on.

5 Mr. Ruiz, can you please spell and
6 state your name for the record?

7 MR. RUIZ: Mark Ruiz. M-A-R-K R-U-I-Z.

8 CHAIRPERSON ANDERSON: Ms. Hogenmiller,
9 are there preliminary mans in this case?

10 MS. HOGENMILLER: Yes. The District
11 would object to Ms. Lewis testifying because she
12 was not disclosed to the District as a potential
13 witness one week before the hearing.

14 CHAIRPERSON ANDERSON: Mr. Shyyan, do
15 you plan to call Ms. Lewis as the witness?

16 MR. SHYYAN: To be honest with you, the
17 goal for Ms. Lewis being here, as I mentioned
18 earlier, she was involved in the incident of
19 selling to a minor, and we just wanted to hear
20 her comments on it.

21 CHAIRPERSON ANDERSON: But there is an
22 objection raised. And the objection that was
23 raised is that you were advised at the Show Cause
24 hearing status that if you're going to rely on
25 documents and any witnesses, you need to have

1 disclosed those documents and witnesses seven
2 days before the hearing. So why did you not
3 disclose this witness to the government? Did you
4 do a PIP? Did you disclose your documents and
5 witnesses to the government seven days before the
6 hearing?

7 MR. SHYYAN: Yes. So my apologies maybe
8 was mentioned on the call, I think it was
9 September 20, the status hearing that I have to
10 disclose. To be honest with you, I don't recall
11 that. But Ms. Janis Lewis is not a new person. If
12 I may provide one comment that her testimony of
13 what transpired on the day of the offense of
14 written testimony signed by Ms. Lewis was
15 provided to Ms. Hogenmiller via email during the
16 negotiating period.

17 Again, I don't know if this violates
18 me not disclosing her name, but I think Ms.
19 Hogenmiller is well aware of who Ms. Lewis is
20 because her testimony was submitted to them via
21 email.

22 CHAIRPERSON ANDERSON: All right. I'm
23 going to not make a ruling at this juncture, Ms.
24 Hogenmiller. I know that the way these cases go
25 is that the government will go first. And once

1 the government has presented this case, then the
2 licensee will have an opportunity to present its
3 case by calling witnesses.

4 If Mr. Shyyan decides to call her as
5 a witness, then you can raise your motion at that
6 time and the Board will ask for further
7 arguments, and then we will make a decision.
8 Okay?

9 MS. HOGENMILLER: Yes, Chairperson.

10 CHAIRPERSON ANDERSON: All right. So
11 this is a Show Cause hearing, and this is a
12 procedure for Show Cause hearing. The government
13 goes first. The government will have an
14 opportunity to make an opening statement.

15 After the government makes its opening
16 statement, you, Mr. Shyyan, will have an
17 opportunity to make an opening statement. You,
18 however, can reserve your right to make an
19 opening statement after the government has
20 presented its case.

21 So the government will call a witness.
22 You have an opportunity to cross-examine the
23 government's witness. After you have had an
24 opportunity to cross-examine the government's
25 witness, then the Board will cross-examine the

1 government's witness. I'm sorry. The Board will
2 ask questions of the government's witness.

3 After the Board has had an opportunity
4 to ask questions of the government witness, you
5 will then get a second opportunity to ask
6 questions of the Board, of the government's
7 witness based on the questions that were asked by
8 the Board.

9 So you can only ask questions based on
10 the questions that were asked by the Board. If
11 the Board did not ask any questions, then you
12 will not have an opportunity to ask any
13 questions. Ms. Hoggenmiller will have an
14 opportunity after that because it's her witness,
15 to redirect. If she hasn't redirect questions of
16 her witness, then she can do that.

17 After the government has presented its
18 case and rested, then you will have an
19 opportunity to present your case, and you can
20 present your case by calling witnesses. And then
21 if you decide to call a witness, if you decide to
22 call Ms. Lewis, and if the government objects to
23 that, the Board will listen to arguments, and
24 then the Board will make a role in whether or not
25 this individual will be allowed to testify. Okay?

1 Any questions by anyone before we start?

2 MS. HOGENMILLER: None from the
3 government.

4 CHAIRPERSON ANDERSON: All right. Thank
5 you. All right, Ms. Hogenmiller, do you wish to
6 make an opening statement?

7 MS. HOGENMILLER: Yes.

8 CHAIRPERSON ANDERSON: Go ahead, ma'am.

9 MS. HOGENMILLER: May it please the
10 Board, this case is about Sammy's Liquor selling
11 alcohol to a minor and failing to take reasonably
12 necessary steps to ascertain the minor's age
13 before the sale. ABCA investigator Mark Ruiz will
14 testify that on July 8, 2023, he arrived at
15 Sammy's Liquors with an undercover minor for a
16 compliance check.

17 The undercover minor was born in March
18 2007, making her 16 years old. Investigator Ruiz

19 (Audio cut off)

20 ... will light beer and then head to the
21 register. Once at the register, the cashier
22 looked at the undercover minor's ID

23 (Audio cut off)

24 ... and then rang up the beer for the undercover
25 minor to purchase.

1 The government charged Sammy's Liquors
2 with two violations. First, sale to a person
3 under 21 years of age, in violation of DC Code
4 section 25-781.

5 Second, failure to take steps
6 reasonably necessary to ascertain whether any
7 person buying alcohol is of legal drinking age,
8 in violation of DC Code 25-783.

9 At the end of the hearing, the
10 government will have proven its case by
11 substantial evidence and request that the Board
12 find in its favor and apply a penalty consistent
13 with DC Code section 25-830. Thank you.

14 CHAIRPERSON ANDERSON: Thank you. Do
15 you wish to make an opening statement at this
16 juncture, sir, or do you reserve until you
17 present your case?

18 MR. SHYYAN: If you're referring to me,
19 I guess only one thing to point out. There are
20 two allegations, and I think the second one
21 shouldn't apply. I think it's called take
22 reasonable steps to ensure legal drinking age.
23 And by the opening statement, Ms. Hogenmiller
24 confirmed that Ms. Lewis actually made her best
25 attempt to assess the legal drinking age. It's

1 just, I'll let her speak, what happened, exactly.
2 But the second point, I think, is inapplicable
3 here.

4 CHAIRPERSON ANDERSON: Mr. Shyyan, the
5 burden is on the government to prove its case.
6 And so the government goes first with the charges
7 in this case. The government then has to present
8 sufficient evidence for this Board to make a
9 determination.

10 In your presentation, sir, you can
11 make those arguments if you do not believe that
12 the government has met its burden on both
13 charges. So those are arguments that once you
14 present your case and in closing, and you can
15 make arguments whether or not you believe the
16 government has met its burden, that your
17 establishment committed the infractions that they
18 were charged with, sir. Okay?

19 MR. SHYYAN: Thank you.

20 CHAIRPERSON ANDERSON: So that was
21 basically your opening statement, or do you have
22 further to say before you present your case? And
23 again, you present your case after the government
24 has presented its case.

25 MR. SHYYAN Yeah. That will be all.

1 CHAIRPERSON ANDERSON: Okay. Thank you.
2 All right, Ms. Hogenmiller, do you have a witness
3 you wish to call?

4 MS. HOGENMILLER: Yes, the District
5 would like to call Investigator Mark Ruiz.

6 CHAIRPERSON ANDERSON: Mr. Ruiz, can
7 you raise your right hand, please? Do you swear
8 or affirm to tell the truth and nothing but
9 truth? Your witness, ma'am.

10 MS. HOGENMILLER: Thank you. Could you
11 please state your name for the record?

12 INVESTIGATOR RUIZ: Yes. Mark Ruiz.
13 M-A-R-K R-U-I-Z.

14 MS. HOGENMILLER: Where are you
15 currently employed?

16 INVESTIGATOR RUIZ: The Alcoholic
17 Beverage and Cannabis Administration.

18 MS. HOGENMILLER: And if I refer to the
19 Alcohol Beverage Cannabis Administration as ABCA,
20 would you know what I'm referring to?

21 INVESTIGATOR RUIZ: Yes.

22 MS. HOGENMILLER: What is your position
23 at ABCA?

24 INVESTIGATOR RUIZ: Investigator.

25 MS. HOGENMILLER: How long have you

1 been an investigator?

2 INVESTIGATOR RUIZ: It's a little over
3 four and a half years.

4 MS. HOGENMILLER: What are your duties
5 and responsibilities as an investigator?

6 INVESTIGATOR RUIZ: To conduct
7 inspections and investigations of licensed ABC
8 establishments.

9 MS. HOGENMILLER: Now, turning to the
10 case for today. Are you familiar with the
11 establishment located at 2725 Bladensburg Road,
12 Northeast Washington, DC, Sammy's Liquors?

13 INVESTIGATOR RUIZ: Yes.

14 MS. HOGENMILLER: How are you familiar
15 with this establishment?

16 INVESTIGATOR RUIZ: We conducted a
17 compliance check at this location.

18 MS. HOGENMILLER: When did you conduct
19 this compliance check?

20 INVESTIGATOR RUIZ: Saturday, July 8,
21 2023.

22 MS. HOGENMILLER: What does it mean to
23 conduct a compliance check?

24 INVESTIGATOR RUIZ: To utilize an
25 undercover minor to enter the establishment in

1 the attempt to purchase alcohol.

2 MS. HOGENMILLER: When you conduct your
3 compliance check on July 8, 2023, what time was
4 it?

5 INVESTIGATOR RUIZ: 6:28 p.m.

6 MS. HOGENMILLER: What happened when
7 you conducted that compliance check on July 8,
8 2023.

9 INVESTIGATOR RUIZ: So minor was
10 directed to enter the establishment, which she
11 did prior to myself, I followed her into the
12 store. The minor went over, selected the alcohol
13 from the display, and then went to the cashier to
14 present for payment, where cashier looked at the
15 ID, continued the transaction, and the minor
16 ultimately left with the alcohol, at which time I
17 followed and exited the store as well.

18 MS. HOGENMILLER: And what was the
19 minor able to purchase at the establishment?

20 INVESTIGATOR RUIZ: A 24-ounce can of
21 Bud Light beer.

22 MS. HOGENMILLER: When the undercover
23 minor was in the establishment, where were you?

24 INVESTIGATOR RUIZ: I was located
25 within approximately, I guess I would say, the

1 center of the store area, where I could see her,
2 as well as the front end.

3 MS. HOGENMILLER: Were you able to
4 observe the minor purchase the beer?

5 INVESTIGATOR RUIZ: Yes.

6 MS. HOGENMILLER: What is the
7 undercover minor's date of birth?

8 INVESTIGATOR RUIZ: March 26, 2007.

9 MS. HOGENMILLER: On the date of the
10 incident, how old was she?

11 INVESTIGATOR RUIZ: 16 years old.

12 MS. HOGENMILLER: After you conducted
13 your compliance check, was there a regulatory
14 inspection of the establishment?

15 INVESTIGATOR RUIZ: Yes.

16 MS. HOGENMILLER: Were there any other
17 violations found?

18 INVESTIGATOR RUIZ: No other violations
19 were found.

20 MS. HOGENMILLER: Did you complete a
21 case report regarding your compliance check of
22 Sammy's Liquors on July 8, 2023?

23 INVESTIGATOR RUIZ: I did.

24 MS. HOGENMILLER: Would you recognize
25 a copy of this report if I were to show it to

1 you?

2 INVESTIGATOR RUIZ: Yes.

3 CHAIRPERSON ANDERSON: And Mr.
4 Orellana, can you please give Ms. Hogenmiller an
5 ability to share her screen?

6 MS. HOGENMILLER: Thank you. Are you
7 able to see my screen?

8 INVESTIGATOR RUIZ: Yes.

9 MS. HOGENMILLER: And let me know if at
10 any time you would like me to zoom in onto the
11 page. Do you recognize this document?

12 INVESTIGATOR RUIZ: Yes. This is the
13 incident report I wrote.

14 MS. HOGENMILLER: And before I go
15 through the incident report, Mr. Chairperson, the
16 District would like to confirm for the record
17 that the government exhibit, I'm going to call it
18 Exhibit A. The case report. The July 8, 2023 case
19 report for Sammy's Liquors is already in evidence
20 pursuant to 23 DCMR 1713.10.

21 CHAIRPERSON ANDERSON: Yes, ma'am,
22 you're correct. It is part of the Board's
23 administrative records. That is already in the
24 record. Thank you.

25 MS. HOGENMILLER: Thank you.

1 Investigator Ruiz, I want to direct you to the
2 second paragraph under the heading that says
3 details. I'm going to zoom in. Looking at the
4 third sentence, it says the UC, UC standing for
5 undercover minor, who is 15 years old, was
6 searched.

7 Here it notes that she was 15 years
8 old. But you previously testified she was 16. Why
9 is there a discrepancy in the reports?

10 INVESTIGATOR RUIZ: There was a
11 miscalculation of the age when her photos were
12 taken.

13 MS. HOGENMILLER: Now, turning to those
14 photos, I'm going to direct you first to Exhibit
15 1. Do you recognize this photo as Exhibit 1?

16 INVESTIGATOR RUIZ: Yes.

17 MS. HOGENMILLER: And then turning to
18 Exhibit 2. Do you recognize this photo as Exhibit
19 2?

20 INVESTIGATOR RUIZ: Yes.

21 MS. HOGENMILLER: What is Exhibit 1 and
22 Exhibit 2?

23 INVESTIGATOR RUIZ: Exhibit 1 would be
24 the full body photo of the UC utilized at this
25 establishment. And this exhibit Number 2 would be

1 our head and shoulders shot.

2 MS. HOGENMILLER: When were these
3 photos taken?

4 INVESTIGATOR RUIZ: Those were taken on
5 the day of the compliance check, July 8, 2023.

6 MS. HOGENMILLER: Now, turning your
7 attention to Exhibit 3 of the case report. Do you
8 recognize this photo?

9 INVESTIGATOR RUIZ: Yes.

10 MS. HOGENMILLER: What is this photo?

11 INVESTIGATOR RUIZ: This is a photo of
12 the UC's identification used that day.

13 MS. HOGENMILLER: Is this the same ID
14 card that she used to purchase the beer?

15 INVESTIGATOR RUIZ: Yes.

16 MS. HOGENMILLER: And what is listed as
17 her birthday on this ID?

18 INVESTIGATOR RUIZ: March 26, 2007.

19 MS. HOGENMILLER: Now turning your
20 attention to Exhibit 4. Do you recognize this
21 photo?

22 INVESTIGATOR RUIZ: Yes.

23 MS. HOGENMILLER: What is Exhibit 4?

24 INVESTIGATOR RUIZ: This is a photo of
25 the 24-ounce can of Bud Light beer that the UC

1 purchased.

2 MS. HOGENMILLER: Turning to Exhibit 5.
3 What is Exhibit 5?

4 INVESTIGATOR RUIZ: Exhibit 5 is the
5 Evidence Transmittal Form detailing the evidence
6 chain of custody from the establishment to the
7 office.

8 MS. HOGENMILLER: And under item 1, it
9 says 24-ounce can, Bud Light. Is that the same as
10 the photo in Exhibit 4?

11 INVESTIGATOR RUIZ: Yes.

12 MS. HOGENMILLER: Turning your
13 attention now to Exhibit 6. What is Exhibit 6?

14 INVESTIGATOR RUIZ: This is a Seattle
15 Minor Notification Form that was completed that
16 day, notifying the establishment of the sale.

17 MS. HOGENMILLER: Lastly, turning to
18 Exhibit 7. What is Exhibit 7 showing us?

19 INVESTIGATOR RUIZ: That is a copy of
20 the Regulatory Inspection Form that was completed
21 that day as well.

22 MS. HOGENMILLER: Were there any other
23 violations found during this regulatory
24 inspection?

25 INVESTIGATOR RUIZ: No.

1 MS. HOGENMILLER: That concludes my
2 questions.

3 CHAIRPERSON ANDERSON: Mr. Shyyan, do
4 you have any questions of the Board's witness?
5 I'm sorry, of the government's witness, sir?

6 MR. SHYYAN: There no questions. The
7 only question, I don't know if it really matters
8 yet. That age miscalculation, 15 versus 16.

9 CHAIRPERSON ANDERSON: Are you asking
10 the question? If you have a question, you ask the
11 question of the witness or not of the witness.

12 MR. SHYYAN: No, I don't have any
13 questions here.

14 CHAIRPERSON ANDERSON: Any questions of
15 the witness by the Board? Mr. Ruiz? Whether or
16 not the minor was 15 or 16, what's the legal age
17 to purchase alcohol in the District of Columbia?

18 INVESTIGATOR RUIZ: 21.

19 CHAIRPERSON ANDERSON: And is there a
20 difference? Have and were you present and is it
21 correct that you were present in the
22 establishment with the minor?

23 INVESTIGATOR RUIZ: Yes.

24 CHAIRPERSON ANDERSON: And is it
25 correct that I think the testimony that the minor

1 was searched before to ensure that there was
2 nothing else on her possession. Is that correct?

3 INVESTIGATOR RUIZ: Correct. Just the
4 money and the ID.

5 CHAIRPERSON ANDERSON: It's also
6 correct that you personally observe the
7 transaction that occurred in the establishment.

8 INVESTIGATOR RUIZ: Correct.

9 CHAIRPERSON ANDERSON: Okay. Any other
10 questions by any Board members? Mr. Shyyan, any
11 questions off the witness based on the questions
12 that I asked?

13 MR. SHYYAN No, Mr. Chair.

14 CHAIRPERSON ANDERSON: Yes, Mr. Short.

15 MEMBER SHORT: Forgive me, Mr. Chair.
16 Thank you. Investigator Ruiz, the copy of an ID
17 that the minor produced to purchase the can of
18 beer, can you describe how that's different than
19 a regular 21 year old or someone of age to buy
20 alcohol?

21 INVESTIGATOR RUIZ: I think you're
22 referring to a state license, state ID. Where
23 they're usually vertical, horizontal this day.

24 MEMBER SHORT: That is correct.

25 INVESTIGATOR RUIZ: She used a United

1 States passport card identification, which, my
2 understanding, they don't do horizontal or
3 vertical. She didn't use a state ID. It was a
4 government passport ID.

5 MEMBER SHORT: Federal Government
6 passport ID.

7 INVESTIGATOR RUIZ: Yes. Correct.

8 MEMBER SHORT: And did you observe the
9 establishment checking the ID when you were
10 watching what was going on?

11 INVESTIGATOR RUIZ: Yes.

12 MEMBER SHORT: And they read it, and
13 they still sold the alcohol. Is that correct?

14 INVESTIGATOR RUIZ: That's correct.

15 MEMBER SHORT: Thank you. That's all I
16 have, Mr. Chair.

17 CHAIRPERSON ANDERSON: You're welcome,
18 Mr. Short. Mr. Shyyan, any questions of the
19 witness based on the question that was asked by
20 Mr. Short?

21 MR. SHYYAN No, sir.

22 CHAIRPERSON ANDERSON: Ms. Hoganmiller.
23 Any redirect?

24 MS. HOGENMILLER: No redirect for me.

25 CHAIRPERSON ANDERSON: Thank you. Mr.

1 Ruiz, thank you very much for your testimony.
2 You're free to go. Ms. Hogenmiller, does the
3 government have another witness to call?

4 MS. HOGENMILLER: No, we do not have
5 another witness. We rest our case.

6 CHAIRPERSON ANDERSON: All right. Thank
7 you. Mr. Shyyan, do you wish to call a witness?

8 MR. SHYYAN I would love to call a
9 witness, Ms. Janis Lewis, who actually performed
10 the transaction just to provide her comments on
11 what transpired that day.

12 CHAIRPERSON ANDERSON: Ms. Hoganmiller,
13 do you have an objection?

14 MS. HOGENMILLER: I would renew our
15 objection. Ms. Lewis' identity was known before
16 the hearing date, but not the establishment's
17 intent.

18 (Audio cut off)

19 CHAIRPERSON ANDERSON: So how would the
20 government, since if you stated that you

21 (Audio cut off)

22 ... the identity of this individual, but you
23 weren't aware that she would have been called as
24 a witness.

25 So tell me, how did the government,

1 how would the government be harmed if this
2 individual was able to testify today?

3 MS. HOGENMILLER: Without the proper
4 notice that's required by the Board, the
5 government is not able to prepare for the hearing
6 knowing that Ms. Lewis was going to testify.

7 CHAIRPERSON ANDERSON: Mr. Shyyan?

8 MR. SHYYAN: All I can say, to be
9 honest with you, this is my first hearing ever
10 within this business regarding this matter. We
11 had prior violations, but this is the first
12 hearing, so and I should have mentioned it in my
13 opening statements, I guess the goal for today's
14 hearing is not say we're not guilty. The goal for
15 today's hearing is to provide Ms. Lewis's
16 perspective on what transpired.

17 And by that, the goal is to probably
18 to minimize the damage to the business. The
19 reason being that we went back and forth a couple
20 of times with Ms. Hogenmiller during the
21 negotiating term, and we couldn't agree on one of
22 the points, and the goal, to be honest with you
23 for today's hearings, is to eliminate one of
24 those points being enforced on us.

25 So I think Ms. Lewis has a valid point

1 to bring up since she was involved in prior
2 similar incident back in 2020. So she just wanted
3 to provide her comments on how she conducts
4 business working at Sammy's Liquors and how she
5 ensures checking every individual's ID if an
6 individual looks of a young age. That was what we
7 wanted to get out of Ms. Lewis's testimony.

8 CHAIRPERSON ANDERSON: Any other
9 comments, Ms. Hoganmiller?

10 MS. HOGENMILLER: No.

11 CHAIRPERSON ANDERSON: Mr. Shyyan, I'm
12 looking at the transcript from our hearing. So we
13 had our status hearing on September 30. And I
14 specifically informed you because I think the
15 parties were talking about settlement.

16 And I specifically said, and just one
17 thing I want to remind the parties, if this
18 matter goes to a Show Cause hearing on October
19 18, seven days prior to the hearing, the parties
20 are required to exchange documents and witnesses
21 that they are going to rely on the hearing. And
22 that was clear in the instruction that was given
23 to you on September 30.

24 So the government has objected to your
25 calling a witness. I mean, you can testify. I can

1 swear you can testify, but I'm going to rule. I'm
2 going to make a motion that the Board deny you
3 the opportunity to call a witness. Is there a
4 second?

5 MEMBER SHORT: Mr. Short seconds.

6 CHAIRPERSON ANDERSON: Mr. Short has
7 seconded. The motion will have a roll call vote.

8 CHAIRPERSON ANDERSON: Mr. Short.

9 MEMBER SHORT: Mr. Short, I agree.

10 CHAIRPERSON ANDERSON: Mr. Cato?.

11 (No audible response)

12 CHAIRPERSON ANDERSON: Ms. Hansen?

13 MEMBER HANSEN: I agree.

14 CHAIRPERSON ANDERSON: Mr. Grandis?

15 MEMBER GRANDIS: I agree.

16 CHAIRPERSON ANDERSON: I agree. The
17 matter passes 5-0-0. So therefore, sir, you can
18 testify. I can an swear you in, and you can state
19 whatever you've stated. Whatever you state, I can
20 swear you in, and then you can make whatever
21 representation you wish to make.

22 Can you raise your right hand, please?

23 You swear or affirm tell the truth and nothing
24 but the truth?

25 MR. SHYYAN: I do.

1 CHAIRPERSON ANDERSON: All right, go
2 ahead.

3 MR. SHYYAN: I can only try to relate
4 what was written in that incident report that Ms.
5 Lewis signed, and it was submitted to Ms.
6 Hoganmiller. As I mentioned earlier, we had a
7 prior incident with Ms. Lewis selling to a minor,
8 I think it was back in 2020.

9 And since that incident, we got a
10 warning for that incident. And since that
11 incident, Ms. Lewis assures to check IDs with
12 every individual who looks of a young age, and as
13 stated in this case, by investigator Mark Ruiz,
14 that Ms. Lewis took reasonable steps to assure a
15 person's ID.

16 A good point was brought up that it
17 was not your standard everyday ID that you look
18 at selling liquor or just simply seeing on a day
19 to day basis, being it's not a driver's license,
20 not a state issued ID. It's a passport ID card,
21 and to be honest with you, that I haven't seen
22 myself ever.

23 Sometimes I worked at the store
24 myself, behind the register, frankly, not often
25 enough, but I've never seen an ID like this.

1 Again, it is a government-issued ID.

2 And second point is Ms. Lewis,
3 unfortunately, sometimes required glasses in
4 order to read up close, especially small numbers
5 like that, and on that day, she forgot her
6 glasses at home. And being over 60 years old, you
7 can understand that sometimes she would require
8 glasses to see certain numbers.

9 So as it was explained by Ms. Lewis to
10 me, that she genuinely believed 2007 looked like
11 2001 to her. So basically, the last number seven
12 looked like number one. That's why she sold. She
13 thought that person was of legal drinking age and
14 therefore proceeded with the transaction. Those
15 were the only comments.

16 The only other comments, I said that
17 Ms. Lewis has been with the store since we took
18 over the business back in 2017. She's an
19 exemplary employee with one unfortunate incident
20 back in 2020. And as I said, since that date, she
21 takes all necessary steps to assure every
22 customer's ID when she believes that customer
23 could be of underage age, if you will.

24 And all I can say that partially, I
25 probably take the blame on myself, because to be

1 honest with you, I have to more frequently come
2 to the store to ensure the operations run
3 smoothly, with it being checking IDs or anything
4 else for that matter.

5 But with everything what's going on
6 with my home country of Ukraine and my relatives,
7 I'm just preoccupied with that almost on a daily
8 basis. So that's why I'm not able to attend the
9 store every day. I come once, twice a week at
10 most these days. Unfortunately.

11 Yeah, those were the only comments.
12 And as I said, we're not arguing that we're not
13 guilty. The goal was to try to minimize the
14 damage and stay open, operating without any
15 suspension, because ever since the pandemic was
16 over, the business is not very profitable at all.
17 So for us to serve any sort of suspension as
18 offered by Ms. Hogenmiller would be pretty much
19 unsustainable. That's all I had to say.

20 CHAIRPERSON ANDERSON: Ms. Hogenmiller,
21 Any questions of Mr. Shyyan?

22 MS. HOGENMILLER: A couple questions.
23 So Sammy's Liquors is a liquor store, correct?

24 MR. SHYYAN: Yes, it is.

25 MS. HOGENMILLER: And as a place that

1 sells alcohol, you're obligated to follow the
2 ABCA laws and regulations?

3 MR. SHYYAN: Of course. I assume so.

4 MS. HOGENMILLER: What are the laws?
5 It's not to sell to someone under 21 years old.

6 MR. SHYYAN: What are the laws? I'm
7 sorry?

8 MS. HOGENMILLER: Is not to sell to
9 anyone who's under 21.

10 MR. SHYYAN: Yes. 21 is a legal
11 drinking age, and we're not allowed to sell
12 liquor to any individual who is under 21.

13 MS. HOGENMILLER: Another is to check
14 the IDs of people who come into your store before
15 you sell alcohol to them.

16 MR. SHYYAN: Yes.

17 MS. HOGENMILLER: And in checking that
18 ID, you need to check someone's date of birth?

19 MR. SHYYAN: That is correct.

20 MS. HOGENMILLER: In looking at that
21 date of birth, you need to determine whether they
22 are 21 years or older?

23 MR. SHYYAN: That is correct.

24 MS. HOGENMILLER: And all these
25 obligations extend to your employees as well?

1 MR. SHYYAN: Yes.

2 MS. HOGENMILLER: No further questions.

3 CHAIRPERSON ANDERSON: Any questions by
4 the Board members? Mr. Shyyan, the question I
5 have for you is that you stated that this
6 employee was given a warning for selling to a
7 minor in 2020.

8 MR. SHYYAN: Yeah, I think it was 2020
9 or 2021, but around that time, yes.

10 CHAIRPERSON ANDERSON: So what type of
11 training did you provide as an employee to ensure
12 that this doesn't occur again?

13 MR. SHYYAN: Oh, we discussed this on a
14 personal basis. We made sure that Ms. Lewis will
15 be taking all necessary steps to assure legal
16 drinking age.

17 And as I stated, I think this case
18 proves the point that, I think back then, in
19 2020, Ms. Lewis failed to check the ID of one of
20 the persons who looked, to be honest with you,
21 over 21 at that time. But we made sure that Ms.
22 Lewis checks IDs of every individual who even
23 slightly looks underage. And this case proves
24 that she tried to identify the legal drinking age
25 of the person.

1 It's just as I said, it's an
2 unfortunate coincidence that she forgot her
3 classes that day, and 2007 looked like 2001. And
4 to be honest with you, I mean, we're all human
5 sometimes when you serve hundreds of transactions
6 per day, miscalculations happen, as proven by Mr.
7 Mark Ruiz miscalculating age of the person, 15
8 versus 16. So sometimes those things happen with
9 us, too.

10 In this particular case, it's not a
11 miscalculation. It's a simple slight under-
12 whelming performance, if I may call it that way.
13 That day that the number seven looked like one, I
14 guess that little tail top tail of the number
15 seven didn't appear to catch Ms. Lewis's
16 attention.

17 So 2007 looked like 2001, and 2001
18 makes that person legal drinking age. And that's
19 where she proceeded with the sale of beer.

20 CHAIRPERSON ANDERSON: This was this
21 was a check that our agency does, sir. And
22 routinely you sell alcohol. How many days a week
23 are you open, sir?

24 MR. SHYYAN: Seven days a week.

25 CHAIRPERSON ANDERSON: And what are

1 your hours of operations?

2 MR. SHYYAN: On Monday through
3 Thursday, it's 10:00 a.m to 9:00 p.m., and then
4 over the weekend, Friday and Saturday till 10:00
5 p.m. And Sunday is a short day, 12 to 6.

6 CHAIRPERSON ANDERSON: So you're open
7 seven days a week, for several hours a day?

8 MR. SHYYAN: Yes.

9 CHAIRPERSON ANDERSON: And ABRA came to
10 your establishment in 2020? In 2020, and you were
11 selling alcohol to a minor and ABRA came to your
12 establishment in 2023, and you're selling alcohol
13 to a minor. So in the three years that ABRA did
14 not come to do a check, sir, how do we know that
15 your establishment is complying with the law?

16 If we came randomly to your occasion
17 twice with an obvious minor, what's actually 15
18 or 16, it's irrelevant, because if Ms. Lewis says
19 that she's 16 and her ID says it's 15, Mr. Ruiz
20 would be giving you the benefit of the doubt to
21 say she looks older than 15 or whatever her age
22 is.

23 Sir, I guess my position to you if
24 we're not at your establishment every day, and if
25 in three years we've been to your establishment

1 twice and at least from the record I hear and if
2 twice you sold alcohol, to a minor.

3 What assurances are you providing to
4 this agency that when we are not there for the
5 seven days a week that you're opened, for all of
6 the days, all the hours that you are not selling
7 and especially you're stating that how business
8 is because of the pandemic that business is slow.
9 What assurances you're providing this agency that
10 you're complying with the law, sir?

11 MR. SHYYAN: Right. The only comment I
12 can provide that from what I recall, since 2020
13 through 2023, there could have been other, I
14 don't know if it was ABCA checks or it was simply
15 customer underage customers trying to buy liquor,
16 but we had at least five occurrences where
17 underage people tried to purchase liquor at our
18 establishment.

19 And our employee caught that underage
20 status of those individuals, and they brought it
21 to my attention. We refused to sell liquor to
22 those individuals, but then again, I don't know
23 if they were ABCA checks or if they were just
24 regular underage customers trying to buy liquor,
25 but those occurrences have been brought up to my

1 attention, and not only by Ms. Lewis, but by my
2 other cashiers as well.

3 CHAIRPERSON ANDERSON: Have you, sir,
4 received any letter or any letter from ABCA to
5 inform you that we did a compliance check with a
6 minor and your establishment did not sell alcohol
7 to the minor? Have you received any notification
8 from ABCA that this occurred?

9 SPA ANDERSON: No, I was not even aware
10 that ABCA is supposed to submit those type of
11 documents, but good to know.

12 CHAIRPERSON ANDERSON: So what this
13 says, sir

14 (Audio cut off)
15 ... check at your establishment and your
16 establishment has not sold to? That we have
17 randomly done and I'm asking these questions
18 because you have basically stated that we
19 committed the violation. You're making arguments
20 to say that what the penalty should be, and
21 that's why I'm asking these questions.

22 So therefore, what this says to me,
23 sir, is that the two times that we have randomly
24 done a compliance check at your establishment,
25 your establishment has sold an obvious minor

1 alcohol. But again, I'm just asking since you
2 have stated that your establishment has committed
3 the violation, so you're appealing to us on the
4 penalty phase.

5 I mean, that was what you stated here.
6 So, therefore, I'm not making a decision about
7 whether or not you're guilty or not because you
8 have admitted that your establishment is guilty
9 of the violation that did occur, and so
10 therefore, you're asking the Board to be lenient
11 in the punishment or whatever punishment that the
12 penalty state. All right?

13 MR. SHYYAN: Yes.

14 CHAIRPERSON ANDERSON: Any other
15 questions by any of the Board members? Any
16 questions, Mr. Shyyan? And I'm sorry, I keep
17 going after look at your name, Ms. Hoganmiller,
18 of Mr. Shyyan, based on the questions that were
19 asked by the Board.

20 MS. HOGENMILLER: No further questions.

21 CHAIRPERSON ANDERSON: Do you have any
22 clarification that you want to provide to the
23 Board, Mr. Shyyan? I'm still going to give you an
24 opportunity to do a closing statement, but if you
25 had an attorney representing you, then it's like

1 I'm giving the attorney an opportunity. So, say,
2 for example, I put you in a box, and you didn't
3 really have an opportunity to provide the
4 explanation. So this is an opportunity if you
5 want to explain whatever it is further, you had
6 just answered to the questions I asked you, sir.

7 MR. SHYYAN: To be honest with you, I
8 don't think I have anything else to add besides
9 the point that, yes, we've reiterated 100 times
10 since the last occurrence in 2020 that we have to
11 check legal drinking age, and again, which we do.
12 It's just an unfortunate coincidence that
13 happened that day that 2007 looked like 2001.

14 And again, it doesn't relieve us from
15 the responsibility. I understand that. And by the
16 way, we consulted with an attorney regarding this
17 case. We stated our opinion, we stated our
18 position, and attorney recommended that just to
19 represent ourselves in this case since there
20 would be no need to. That was their
21 recommendation. Like, you don't even need me in
22 this case because you're not

23 CHAIRPERSON ANDERSON: Well, Mr.
24 Shyyan. I mean, you're doing a good job in
25 representing yourself, sir. So I'm smiling

1 because although you're doing pro se, you're
2 doing a good job in representing the interest.
3 Whatever information was given to you by the
4 attorney, clearly you are following that advice
5 because you're doing a good job in representing
6 yourself, sir. So I'll hand that to you, okay?
7 All right. So, all right, so we're at the stage
8 where Ms. Hogenmiller, do you wish to make a
9 closing in the sense that what is it that you
10 want the Board to do?

11 MS. HOGENMILLER: Yes, a short closing.

12 CHAIRPERSON ANDERSON: Go ahead, ma'am.

13 MS. HOGENMILLER: May it please the
14 Board, there is no factual dispute in this case.
15 The establishment sold alcohol to a minor. The
16 government has also proven its case by
17 substantial evidence that the establishment has
18 failed to take reasonably necessary steps to
19 ascertain the minor's age before the sale.

20 You heard from investigator Ruiz. He
21 worked with an undercover minor to conduct a
22 compliance check on Sammy's Liquors. You saw a
23 copy of the undercover minor's ID, who was born
24 on March 26, 2007, making her 16 years old on
25 July 8 2023. Investigator Ruiz observed the

1 undercover minor go into the store, saw her get a
2 can of Bud Light, and then go to the counter to
3 purchase the beer.

4 And when she was at the counter, the
5 sales clerk checked her ID, and though she was
6 under 21, sold her the beer. You also saw a
7 picture of the Bud Light that was sold to the
8 minor. And lastly, the establishment admitted
9 that they sold alcohol to a minor.

10 The establishment tries to skirt its
11 violations, saying that the clerk was not wearing
12 her glasses at the time and mistook the date on
13 the ID. That's not a defense. If the sales clerk
14 needs glasses to properly see a patron's date of
15 birth on the ID, then a reasonably necessary step
16 to ascertain a person's age is wearing her
17 glasses.

18 The government has proven its two
19 charges. First, that Sammy's Liquors sold alcohol
20 to someone under 21 years old in violation of DC
21 Code Section 25-781. Sammy's Liquors violated
22 this Code section when it sold beer to a 15-year-
23 old.

24 Second, Sammy's Liquors failed to take
25 reasonably necessary steps to ascertain whether

1 any person buying alcohol is of legal drinking
2 age, in violation of DC Code Section 25-783.
3 Sammy's Liquors violated this Code section
4 because its sales clerk failed to wear her
5 glasses, which she needed and then subsequently
6 failed to properly see the patron's age or
7 calculate her correct birth date before selling
8 her the beer.

9 Thus, the government requests that the
10 Board find in its favor and apply a penalty that
11 is consistent with DC Code. Thank you.

12 CHAIRPERSON ANDERSON: Thank you,
13 ma'am. Mr. Shyyan, what is it that you want the
14 Board to do today?

15 MR. SHYYAN: I can only hope for the
16 minimal penalty that you can impose on our
17 business. As I said, we don't mind. Yeah, if it's
18 a fine, it is what it is. We have to pay fine.

19 But if it's a license suspension and
20 we have to be closed for a prolonged period of
21 time, as I said, ever since the pandemic is over,
22 the business is not very profitable at all. So
23 it's not, unfortunately, a sustainable way for us
24 to maintain our business.

25 The only other fact that I forgot to

1 bring up ever since the 2020 incident --

2 MS. HOGENMILLER: Objection.

3 CHAIRPERSON ANDERSON: I know you're a
4 non-lawyer. You can't bring things up, but I'll
5 give you a little leeway. But you can't really
6 bring new things, new arguments in your closing.

7 MR. SHYYAN: Oh, it's not an argument.
8 It's just a comment. If you didn't bring it up
9 before, you can't bring it up. Your closing is
10 just wrapping up the case to show what it is that
11 you proved, sir. Go ahead.

12 MR. SHYYAN: Okay, so, yes, as I said
13 earlier, we're not arguing that we broke the law
14 in this particular incident. My only argument is
15 that we did take all reasonable steps to assure
16 drinking age of an individual.

17 And that being the fact that Ms. Lewis
18 checked that individual's ID, it's just the fact
19 of misreading, mistaking 2007 for 2001 occurred
20 on that day. So I hope the Board makes the right
21 decision in this case. Thank you.

22 CHAIRPERSON ANDERSON: All right. This
23 matter is now closed. So I'll bring this, then,
24 this case to closure. All right. As Chairperson
25 of the Alcohol, Beverage and Cannabis Board for

1 the District of Columbia in accordance with DC
2 Code Section 2575 of the Open Meeting Act, I move
3 that ABC Board hold a closed meeting for the
4 purpose of seeking legal advice from our council
5 on Case Number 23CC-00127, Sammy's Liquor,
6 pursuant to DC Official Code Section 2575B4A of
7 the Open Meetings Act and deliberating upon case
8 Number 23-CC-00127, Sammy's Liquors, for the
9 reason cited in DC Official Code Section 2575-B13
10 of the Open Meeting Act. Is there a second?

11 MEMBER HANSEN: Second.

12 CHAIRPERSON ANDERSON: Ms. Hanson has
13 seconded. The motion will now roll call. Mr.
14 Short.

15 MEMBER SHORT: Mr. Short, I agree.

16 CHAIRPERSON ANDERSON: Mr. Cato?

17 MEMBER CATO: I agree.

18 CHAIRPERSON ANDERSON: Ms. Hansen?

19 MEMBER HANSEN: I agree.

20 CHAIRPERSON ANDERSON: Mr. Grandis?

21 MEMBER GRANDIS: I agree.

22 CHAIRPERSON ANDERSON: I agree.

23 As it appears in the motion has passed
24 5-0-0, I hereby give notice that the ABC Board
25 will reset this proceedings to hold a closed

1 meeting pursuant to Section 575 of the Open
2 Meetings Act. Thank you very much for your
3 presentation today. The Board will take the
4 arguments under advisement and will issue a
5 decision within 90 days. Have a great day. Thank
6 you very much. Thank you, everybody. Bye.

7 (Whereupon the above entitled matter
8 went off the record.)

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In the matter of: Sammy's Liquors

Before: DC ABCA

Date: 10-18-23

Place: teleconference

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Court Reporter

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